

RECODIFICATION OF NATURAL RESOURCES**PROVISIONS**

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends and enacts provisions relating to natural resources.

Highlighted Provisions:

This bill:

- ▶ creates Title 79, Natural Resources;
- ▶ enacts chapter and part titles;
- ▶ renumbers and amends the following chapters from Title 63, State Affairs in General:
 - Chapter 34, Utah Natural Resources Act;
 - Chapter 73, Geological Survey;
 - Chapter 11, Parks and Recreation; and
 - Chapter 11a, Recreational Trails;
- ▶ amends cross-references to the renumbered sections;
- ▶ cross-references sections that create policy boards within the department with a general provision relating to policy board members;
- ▶ exempts policy board members from a provision in the Utah Public Officers' and Employees' Ethics Act if the member refrains from voting on a matter in which the member has an interest;
- ▶ repeals and reenacts sections relating to:
 - the department's authority to adopt a fee schedule;
 - the department's authority to accept federal funds;
 - the department's authority to plan for the development and conservation of natural resources and outdoor recreational resources;
 - department volunteers;
 - the Board of Parks and Recreation rulemaking authority; and

- 32 • fees for the Green River State Park;
- 33 ▶ defines terms;
- 34 ▶ repeals intent language;
- 35 ▶ repeals part of a provision relating to policy board members;
- 36 ▶ clarifies the applicability of the Administrative Procedures Act in department
- 37 proceedings;
- 38 ▶ repeals part of a provision that is no longer applicable relating to interest generated
- 39 by the Utah Geological Survey Sample Library Fund;
- 40 ▶ amends a provision related to paleontological resources on SITLA land;
- 41 ▶ repeals a provision relating to geological survey employees under the University of
- 42 Utah salary schedule;
- 43 ▶ repeals several sections related to state parks that are no longer applicable, including
- 44 references to:
 - 45 • the Utah State Park and Recreation Commission;
 - 46 • Jordan River State Park;
 - 47 • the Riverway Enhancement Advisory Council;
 - 48 • the Riverway Enhancement Program;
 - 49 • the old Utah State Prison;
 - 50 • Wasatch Mountain State Park;
 - 51 • Pioneer Monument State Park;
 - 52 • Bonneville Scenic Drive; and
 - 53 • Indian and frontier history and culture;
- 54 ▶ requires the Division of Parks and Recreation to hold a public hearing if requested
- 55 by a county legislative body;
- 56 ▶ repeals the Centennial Nonmotorized Path and Trail Crossing Program;
- 57 ▶ clarifies the Board of Parks and Recreation's authority to give grants for recreational
- 58 trails; and
- 59 ▶ makes technical changes.

60 **Monies Appropriated in this Bill:**

61 None

62 **Other Special Clauses:**

63 None

64 **Utah Code Sections Affected:**

65 AMENDS:

66 **11-38-302**, as last amended by Laws of Utah 2005, Chapter 138
67 **23-14-2**, as last amended by Laws of Utah 2002, Chapter 176
68 **40-6-2**, as last amended by Laws of Utah 1992, Chapter 34
69 **40-6-4**, as last amended by Laws of Utah 2002, Chapter 176
70 **40-6-15**, as enacted by Laws of Utah 1983, Chapter 205
71 **40-6-17**, as enacted by Laws of Utah 1983, Chapter 205
72 **40-6-19**, as last amended by Laws of Utah 2002, Chapter 256
73 **40-8-4**, as last amended by Laws of Utah 2008, Chapter 382
74 **40-8-6**, as last amended by Laws of Utah 2008, Chapter 382
75 **40-10-27**, as last amended by Laws of Utah 1997, Chapter 135
76 **41-22-12**, as last amended by Laws of Utah 2007, Chapter 136
77 **53-13-103**, as last amended by Laws of Utah 2007, Chapter 329
78 **54-17-701**, as enacted by Laws of Utah 2008, Chapter 374
79 **59-5-101**, as last amended by Laws of Utah 2008, Chapter 382
80 **59-7-614**, as last amended by Laws of Utah 2008, Chapter 389
81 **59-10-1014**, as last amended by Laws of Utah 2008, Chapter 389
82 **59-10-1106**, as last amended by Laws of Utah 2008, Chapter 389
83 **59-12-103 (Effective 01/01/09)**, as last amended by Laws of Utah 2008, Second
84 Special Session, Chapter 5
85 **59-23-4**, as last amended by Laws of Utah 2005, Chapter 16
86 **63A-5-204**, as last amended by Laws of Utah 2008, Chapter 382
87 **63A-5-222**, as last amended by Laws of Utah 2008, Chapter 250
88 **63B-4-201**, as last amended by Laws of Utah 2008, Chapter 382
89 **63C-11-102**, as enacted by Laws of Utah 2007, Chapter 361
90 **63G-2-206**, as last amended by Laws of Utah 2008, Chapter 95 and renumbered and
91 amended by Laws of Utah 2008, Chapter 382
92 **63G-2-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382

- 93 **63J-4-502**, as renumbered and amended by Laws of Utah 2008, Chapter 382
94 **65A-1-1**, as last amended by Laws of Utah 1996, Chapter 159
95 **65A-1-2**, as last amended by Laws of Utah 1996, Chapter 159
96 **65A-1-3**, as last amended by Laws of Utah 1996, Chapters 159 and 243
97 **65A-1-4**, as last amended by Laws of Utah 2008, Chapter 382
98 **65A-8-302**, as renumbered and amended by Laws of Utah 2007, Chapter 136
99 **67-19-27**, as last amended by Laws of Utah 2003, Chapter 123
100 **72-2-117.5**, as last amended by Laws of Utah 2008, Chapter 286
101 **72-5-203**, as last amended by Laws of Utah 2008, Chapter 382
102 **72-11-204**, as renumbered and amended by Laws of Utah 1999, Chapter 195
103 **73-3-30**, as enacted by Laws of Utah 2008, Chapter 311
104 **73-10-2**, as last amended by Laws of Utah 2003, Chapter 131
105 **73-10c-2**, as last amended by Laws of Utah 2007, Chapter 142
106 **73-10e-1**, as last amended by Laws of Utah 1986, Chapter 167
107 **76-6-206.2**, as enacted by Laws of Utah 2004, Chapter 103
108 **78A-3-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3
109 **78A-4-103**, as renumbered and amended by Laws of Utah 2008, Chapter 3

110 ENACTS:

- 111 **79-1-101**, Utah Code Annotated 1953
112 **79-1-102**, Utah Code Annotated 1953
113 **79-2-101**, Utah Code Annotated 1953
114 **79-2-102**, Utah Code Annotated 1953
115 **79-2-302**, Utah Code Annotated 1953
116 **79-3-101**, Utah Code Annotated 1953
117 **79-4-101**, Utah Code Annotated 1953
118 **79-4-102**, Utah Code Annotated 1953
119 **79-4-304**, Utah Code Annotated 1953
120 **79-5-101**, Utah Code Annotated 1953

121 RENUMBERS AND AMENDS:

- 122 **79-2-201**, (Renumbered from 63-34-3, as last amended by Laws of Utah 1996, Chapter
123 159)

124 **79-2-202 (Contingently Effective)**, (Renumbered from 63-34-5 (Contingently
125 Effective), as last amended by Laws of Utah 2008, Chapter 382)
126 **79-2-202 (Contingently Superseded)**, (Renumbered from 63-34-5 (Contingently
127 Superseded), as last amended by Laws of Utah 2003, Chapter 144)
128 **79-2-203**, (Renumbered from 63-34-4, as last amended by Laws of Utah 2002, Chapter
129 176)
130 **79-2-204**, (Renumbered from 63-34-6, as last amended by Laws of Utah 2008, Chapter
131 250)
132 **79-2-205**, (Renumbered from 63-34-3.1, as last amended by Laws of Utah 2008,
133 Chapter 382)
134 **79-2-301**, (Renumbered from 63-34-8, as last amended by Laws of Utah 1983, Chapter
135 318)
136 **79-2-303**, (Renumbered from 63-34-14, as last amended by Laws of Utah 2005,
137 Chapter 71)
138 **79-2-304**, (Renumbered from 63-34-20, as enacted by Laws of Utah 2006, Chapter 35)
139 **79-2-305 (Contingently Effective)**, (Renumbered from 63-34-3.2 (Contingently
140 Effective), as enacted by Laws of Utah 2002, Chapter 142)
141 **79-2-306 (Contingently Effective)**, (Renumbered from 63-34-3.3 (Contingently
142 Effective), as enacted by Laws of Utah 2002, Chapter 142)
143 **79-2-401**, (Renumbered from 63-34-9, as enacted by Laws of Utah 1981, Chapter 186)
144 **79-2-402**, (Renumbered from 63-34-15, as last amended by Laws of Utah 2008,
145 Chapter 382)
146 **79-2-403**, (Renumbered from 63-34-21, as enacted by Laws of Utah 2008, Chapters
147 203 and 203)
148 **79-3-102**, (Renumbered from 63-73-1, as last amended by Laws of Utah 1996, Chapter
149 79)
150 **79-3-201**, (Renumbered from 63-73-5, as enacted by Laws of Utah 1988, Chapter 137)
151 **79-3-202**, (Renumbered from 63-73-6, as last amended by Laws of Utah 2008, Chapter
152 382)
153 **79-3-203**, (Renumbered from 63-73-7, as enacted by Laws of Utah 1988, Chapter 137)

154 **79-3-204**, (Renumbered from 63-73-8, as enacted by Laws of Utah 1988, Chapter 137)
155 **79-3-205**, (Renumbered from 63-73-9, as enacted by Laws of Utah 1988, Chapter 137)
156 **79-3-301**, (Renumbered from 63-73-2, as last amended by Laws of Utah 1991, Chapter
157 28)
158 **79-3-302**, (Renumbered from 63-73-3, as last amended by Laws of Utah 1996, Chapter
159 243)
160 **79-3-303**, (Renumbered from 63-73-4, as last amended by Laws of Utah 2008, Chapter
161 382)
162 **79-3-401**, (Renumbered from 63-73-10, as enacted by Laws of Utah 1988, Chapter 137)
163 **79-3-402**, (Renumbered from 63-73-21, as last amended by Laws of Utah 2002,
164 Chapter 256)
165 **79-3-501**, (Renumbered from 63-73-12, as enacted by Laws of Utah 1995, Chapter 170)
166 **79-3-502**, (Renumbered from 63-73-13, as enacted by Laws of Utah 1995, Chapter 170)
167 **79-3-503**, (Renumbered from 63-73-14, as enacted by Laws of Utah 1995, Chapter 170)
168 **79-3-504**, (Renumbered from 63-73-15, as enacted by Laws of Utah 1995, Chapter 170)
169 **79-3-505**, (Renumbered from 63-73-16, as enacted by Laws of Utah 1995, Chapter 170)
170 **79-3-506**, (Renumbered from 63-73-17, as enacted by Laws of Utah 1995, Chapter 170)
171 **79-3-507**, (Renumbered from 63-73-18, as enacted by Laws of Utah 1995, Chapter 170)
172 **79-3-508**, (Renumbered from 63-73-19, as enacted by Laws of Utah 1995, Chapter 170)
173 **79-3-509**, (Renumbered from 63-73-20, as last amended by Laws of Utah 1996,
174 Chapter 15)
175 **79-3-510**, (Renumbered from 63-73-11, as enacted by Laws of Utah 1995, Chapter 170)
176 **79-4-201**, (Renumbered from 63-11-17.1, as last amended by Laws of Utah 1969,
177 Chapter 198)
178 **79-4-202**, (Renumbered from 63-11-18, as last amended by Laws of Utah 1983,
179 Chapter 318)
180 **79-4-203**, (Renumbered from 63-11-17, as last amended by Laws of Utah 2008,
181 Chapters 3, 201, and 382)
182 **79-4-204**, (Renumbered from 63-11-19, as last amended by Laws of Utah 1969,
183 Chapter 198)
184 **79-4-205**, (Renumbered from 63-11-20, as repealed and reenacted by Laws of Utah

185 1993, Chapter 247)
186 **79-4-206**, (Renumbered from 63-11-68, as enacted by Laws of Utah 2008, Chapter 285)
187 **79-4-301**, (Renumbered from 63-11-12, as last amended by Laws of Utah 2008,
188 Chapter 382)
189 **79-4-302**, (Renumbered from 63-11-14, as last amended by Laws of Utah 2002,
190 Chapter 176)
191 **79-4-303**, (Renumbered from 63-11-16, as enacted by Laws of Utah 1967, Chapter 176)
192 **79-4-305**, (Renumbered from 63-11-13, as last amended by Laws of Utah 1983,
193 Chapter 318)
194 **79-4-401**, (Renumbered from 63-11-21, as last amended by Laws of Utah 1983,
195 Chapter 318)
196 **79-4-402**, (Renumbered from 63-11-66, as last amended by Laws of Utah 2004,
197 Chapter 103)
198 **79-4-403**, (Renumbered from 63-11-19.5, as last amended by Laws of Utah 2000,
199 Chapter 70)
200 **79-4-404**, (Renumbered from 63-11-67, as enacted by Laws of Utah 2008, Chapter 201)
201 **79-4-501**, (Renumbered from 63-11-17.2, as last amended by Laws of Utah 1998,
202 Chapter 282)
203 **79-4-502**, (Renumbered from 63-11-17.3, as last amended by Laws of Utah 1997,
204 Chapter 315)
205 **79-4-601**, (Renumbered from 63-11-3, as last amended by Laws of Utah 1969, Chapter
206 198)
207 **79-4-602**, (Renumbered from 63-11-54.5, as last amended by Laws of Utah 2000,
208 Chapter 20)
209 **79-4-603**, (Renumbered from 63-11-54, as enacted by Laws of Utah 1973, Chapter 161)
210 **79-4-604**, (Renumbered from 63-11-55, as enacted by Laws of Utah 1973, Chapter 161)
211 **79-4-701**, (Renumbered from 63-11-3.1, as last amended by Laws of Utah 2000,
212 Chapter 300)
213 **79-4-702**, (Renumbered from 63-11-3.2, as enacted by Laws of Utah 1998, Chapter
214 225)

215 **79-4-703**, (Renumbered from 63-11-3.3, as enacted by Laws of Utah 1998, Chapter
216 225)
217 **79-4-704**, (Renumbered from 63-11-10.2, as last amended by Laws of Utah 1969,
218 Chapter 198)
219 **79-4-705**, (Renumbered from 63-11-10.3, as last amended by Laws of Utah 1969,
220 Chapter 198)
221 **79-4-801**, (Renumbered from 63-11-16.5, as last amended by Laws of Utah 1986,
222 Chapter 167)
223 **79-4-802**, (Renumbered from 63-11-17.8, as last amended by Laws of Utah 2000,
224 Chapter 20)
225 **79-4-901**, (Renumbered from 63-11-63, as enacted by Laws of Utah 1977, Chapter 182)
226 **79-4-1001**, (Renumbered from 63-11-19.2, as last amended by Laws of Utah 2003,
227 Chapter 336)
228 **79-5-102**, (Renumbered from 63-11a-101, as enacted by Laws of Utah 1991, Chapter
229 144)
230 **79-5-103**, (Renumbered from 63-11a-102, as enacted by Laws of Utah 1991, Chapter
231 144)
232 **79-5-201**, (Renumbered from 63-11a-401, as enacted by Laws of Utah 1991, Chapter
233 144)
234 **79-5-202**, (Renumbered from 63-11a-402, as last amended by Laws of Utah 1999,
235 Chapter 270)
236 **79-5-301**, (Renumbered from 63-11a-201, as enacted by Laws of Utah 1991, Chapter
237 144)
238 **79-5-302**, (Renumbered from 63-11a-103, as last amended by Laws of Utah 2008,
239 Chapter 308)
240 **79-5-303**, (Renumbered from 63-11a-202, as enacted by Laws of Utah 1991, Chapter
241 144)
242 **79-5-304**, (Renumbered from 63-11a-203, as last amended by Laws of Utah 1993,
243 Chapter 281)
244 **79-5-401**, (Renumbered from 63-11a-301, as last amended by Laws of Utah 1993,
245 Chapter 281)

246 **79-5-501**, (Renumbered from 63-11a-501, as last amended by Laws of Utah 2000,
247 Chapter 20)
248 **79-5-502**, (Renumbered from 63-11a-502, as enacted by Laws of Utah 1991, Chapter
249 144)
250 **79-5-503**, (Renumbered from 63-11a-504, as enacted by Laws of Utah 1999, Chapter
251 342)

252 REPEALS:

253 **63-11-1**, as last amended by Laws of Utah 2007, Chapter 306
254 **63-11-17.5**, as last amended by Laws of Utah 1993, Chapter 227
255 **63-11-17.7**, as last amended by Laws of Utah 1999, Chapter 213
256 **63-11-19.1**, as last amended by Laws of Utah 1997, Chapter 276
257 **63-11-19.6**, as last amended by Laws of Utah 2000, Chapter 70
258 **63-11-33**, as last amended by Laws of Utah 1987, Chapter 167
259 **63-11-34**, as enacted by Laws of Utah 1969, Chapter 139
260 **63-11-35**, as enacted by Laws of Utah 1969, Chapter 139
261 **63-11-36**, as enacted by Laws of Utah 1969, Chapter 139
262 **63-11-56**, as enacted by Laws of Utah 1974, Chapter 29
263 **63-11-62**, as enacted by Laws of Utah 1977, Chapter 182
264 **63-11a-503**, as last amended by Laws of Utah 2008, Chapter 382
265 **63-34-1**, as enacted by Laws of Utah 1967, Chapter 176
266 **63-34-7**, as last amended by Laws of Utah 1969, Chapter 198
267 **63-34-10**, as enacted by Laws of Utah 1981, Chapter 186
268 **63-34-11**, as last amended by Laws of Utah 1999, Chapter 236
269 **63-34-12**, as last amended by Laws of Utah 2006, Chapter 139
270 **63-34-16**, as renumbered and amended by Laws of Utah 2003, Chapter 16
271 **63-34-17**, as last amended by Laws of Utah 2008, Chapter 382
272 **63-34-18**, as renumbered and amended by Laws of Utah 2003, Chapter 16
273 **63-34-19**, as renumbered and amended by Laws of Utah 2003, Chapter 16

274

275 *Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **11-38-302** is amended to read:

11-38-302. Use of money in fund -- Criteria -- Administration.

(1) Subject to Subsection (2), the commission may authorize the use of money in the fund, by grant or loan, to:

(a) a local entity;

(b) the Department of Natural Resources created under Section ~~[63-34-3]~~ 79-2-201;

(c) the Department of Agriculture and Food created under Section 4-2-1; or

(d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code.

(2) (a) The money in the fund shall be used for preserving or restoring open land and agricultural land.

(b) (i) Except as provided in Subsection (2)(b)(ii), money from the fund may not be used to purchase a fee interest in real property in order to preserve open land or agricultural land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land.

(ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

(A) the parcel to be purchased is no more than 20 acres in size; and

(B) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

(iii) Eminent domain may not be used or threatened in connection with any purchase using money from the fund.

(iv) A parcel of land larger than 20 acres in size may not be divided into separate parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

(c) A county, city, town, department, or organization under Subsection (1) may not receive money from the fund unless it provides matching funds equal to or greater than the amount of money received from the fund.

(d) In loaning or granting money from the fund, the commission may impose

307 conditions on the recipient as to how the money is to be spent.

308 (e) The commission shall give priority to requests from the Department of Natural
309 Resources for up to 20% of each annual increase in the amount of money in the fund if the
310 money is used for the protection of wildlife or watershed.

311 (f) (i) The commission may not make a grant or loan from the fund that exceeds
312 \$1,000,000 until after making a report to the Legislative Management Committee about the
313 grant or loan.

314 (ii) The Legislative Management Committee may make a recommendation to the
315 commission concerning the intended grant or loan, but the recommendation is not binding on
316 the commission.

317 (3) (a) If money from the fund is distributed in the form of a loan, the commission may
318 require interest to be paid and shall establish other terms of each loan, including a repayment
319 schedule.

320 (b) Each payment on a loan from the fund shall be returned to the fund and shall be
321 applied first to interest and then to principal.

322 (4) In determining the amount and type of financial assistance to provide an entity,
323 department, or organization under Subsection (1) and subject to Subsection (2)(f), the
324 commission:

325 (a) if the assistance is in the form of a loan, shall consider the borrower's ability to
326 repay the loan; and

327 (b) shall consider:

328 (i) the nature and amount of open land and agricultural land proposed to be preserved
329 or restored;

330 (ii) the qualities of the open land and agricultural land proposed to be preserved or
331 restored;

332 (iii) the cost effectiveness of the project to preserve or restore open land or agricultural
333 land;

334 (iv) the funds available;

335 (v) the number of actual and potential applications for financial assistance and the
336 amount of money sought by those applications;

337 (vi) the open land preservation plan of the local entity where the project is located and

the priority placed on the project by that local entity;

(vii) the effects on housing affordability and diversity; and

(viii) whether the project protects against the loss of private property ownership.

(5) If a county, city, town, department, or organization under Subsection (1) seeks money from the fund for a project whose purpose is to protect critical watershed, the commission shall require that the needs and quality of that project be verified by the state engineer.

(6) Each interest in real property purchased with money from the fund shall be held and administered by the state or a local entity.

Section 2. Section **23-14-2** is amended to read:

23-14-2. Wildlife Board -- Creation -- Membership -- Terms -- Quorum -- Meetings -- Per diem and expenses.

(1) There is created a Wildlife Board which shall consist of seven members appointed by the governor with the consent of the Senate.

(2) (a) ~~[The]~~ In addition to the requirements of Section 79-2-203, the members of the board shall have expertise or experience in at least one of the following areas:

(i) wildlife management or biology;

(ii) habitat management, including range or aquatic;

(iii) business, including knowledge of private land issues; and

(iv) economics, including knowledge of recreational wildlife uses.

(b) Each of the areas of expertise under Subsection (2)(a) shall be represented by at least one member of the Wildlife Board.

(3) (a) The governor shall select each board member from a list of nominees submitted by the nominating committee pursuant to Section 23-14-2.5.

(b) No more than two members shall be from a single wildlife region described in Subsection 23-14-2.6(1).

(c) The governor may request an additional list of at least two nominees from the nominating committee if the initial list of nominees for a given position is unacceptable.

(d) (i) If the governor fails to appoint a board member within 60 days after receipt of the initial or additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim board member shall serve until the matter is resolved by the committee and the governor or until the board member is replaced pursuant to this chapter.

(4) (a) Except as required by Subsection (4)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a six-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of board members are staggered so that approximately 1/3 of the board is appointed every two years; and

(ii) members serving from the same region have staggered terms.

(c) If a vacancy occurs, the nominating committee shall submit two names, as provided in Subsection 23-14-2.5(4), to the governor and the governor shall appoint a replacement for the unexpired term.

(d) Board members may serve only one term unless:

(i) the member is among the first board members appointed to serve four years or less; or

(ii) the member filled a vacancy under Subsection (4)(c) for four years or less.

(5) (a) The board shall elect a chair and a vice chair from its membership.

(b) Four members of the board shall constitute a quorum.

(c) The director of the Division of Wildlife Resources shall act as secretary to the board but shall not be a voting member of the board.

(6) (a) The Wildlife Board shall hold a sufficient number of public meetings each year to expeditiously conduct its business.

(b) Meetings may be called by the chair upon five days notice or upon shorter notice in emergency situations.

(c) Meetings may be held at the Salt Lake City office of the Division of Wildlife Resources or elsewhere as determined by the Wildlife Board.

(7) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(8) (a) The members of the Wildlife Board shall complete an orientation course to assist them in the performance of the duties of their office.

(b) The Department of Natural Resources shall provide the course required under Subsection (8)(a).

Section 3. Section **40-6-2** is amended to read:

40-6-2. Definitions.

For the purpose of this chapter:

(1) "Board" means the Board of Oil, Gas, and Mining.

(2) "Correlative rights" means the opportunity of each owner in a pool to produce his just and equitable share of the oil and gas in the pool without waste.

(3) "Condensate" means hydrocarbons, regardless of gravity, that:

(a) occur naturally in the gaseous phase in the reservoir; and

(b) are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.

(4) "Consenting owner" means an owner who consents in advance to the drilling and operation of a well and agrees to bear his proportionate share of the costs of the drilling and operation of the well.

(5) "Crude oil" means hydrocarbons, regardless of gravity, that:

(a) occur naturally in the liquid phase in the reservoir; and

(b) are produced and recovered at the wellhead in liquid form.

(6) (a) "Gas" means natural gas, as defined in Subsection (9), natural gas liquids, as defined in Subsection (10), other gas, as defined in Subsection (14), or any mixture of them.

(b) "Gas" does not include any gaseous or liquid substance processed from coal, oil shale, or tar sands.

(7) "Illegal oil" or "illegal gas" means oil or gas that has been produced from any well

431 within the state in violation of this chapter or any rule or order of the board.

432 (8) "Illegal product" means any product derived in whole or in part from illegal oil or
433 illegal gas.

434 (9) (a) "Natural gas" means hydrocarbons that occur naturally in the gaseous phase in
435 the reservoir and are produced and recovered at the wellhead in gaseous form, except natural
436 gas liquids as defined in Subsection (10) and condensate as defined in Subsection (3).

437 (b) "Natural gas" includes coalbed methane gas.

438 (10) "Natural gas liquids" means hydrocarbons, regardless of gravity, that are separated
439 from natural gas as liquids in gas processing plants through the process of condensation,
440 absorption, adsorption, or other methods.

441 (11) "Nonconsenting owner" means an owner who after written notice does not consent
442 in advance to the drilling and operation of a well or agree to bear his proportionate share of the
443 costs.

444 (12) (a) "Oil" means crude oil, as defined in Subsection (5), condensate, as defined in
445 Subsection (3), or any mixture of them.

446 (b) "Oil" does not include any gaseous or liquid substance processed from coal, oil
447 shale, or tar sands.

448 (13) (a) "Oil and gas proceeds" means any payment that:

449 (i) derives from oil and gas production from any well located in the state;

450 (ii) is expressed as a right to a specified interest in the:

451 (A) cash proceeds received from the sale of the oil and gas; or

452 (B) the cash value of the oil and gas; and

453 (iii) is subject to any tax withheld from the payment pursuant to law.

454 (b) "Oil and gas proceeds" includes a royalty interest, overriding royalty interest,
455 production payment interest, or working interest.

456 (c) "Oil and gas proceeds" does not include a net profits interest or other interest the
457 extent of which cannot be determined with reference to a specified share of:

458 (i) the cash proceeds received from the sale of the oil and gas; or

459 (ii) the cash value of the oil and gas.

460 (14) (a) "Other gas" means nonhydrocarbon gases that:

461 (i) occur naturally in the gaseous phase in the reservoir; or

(ii) are injected into the reservoir in connection with pressure maintenance, gas cycling, or other secondary or enhanced recovery projects.

(b) "Other gas" includes hydrogen sulfide, carbon dioxide, helium, and nitrogen.

(15) "Owner" means the person who has the right:

(a) to drill into and produce from a reservoir; and

(b) appropriate the oil and gas produced for himself or for himself and others.

(16) "Operator" means the person who has been designated by the owners or the board to operate a well or unit.

(17) "Payor" means the person who undertakes to distribute oil and gas proceeds to the persons entitled to them, whether as the first purchaser of that production, as operator of the well from which the production was obtained, or as lessee under the lease on which royalty is due.

(18) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure that is completely separated from any other zone in the structure is a separate pool. "Common source of supply" and "reservoir" are synonymous with "pool."

(19) "Pooling" means the bringing together of separately owned interests for the common development and operation of a drilling unit.

(20) "Producer" means the owner or operator of a well capable of producing oil and gas.

(21) "Product" means any commodity made from oil and gas.

(22) "Waste" means:

(a) the inefficient, excessive, or improper use or the unnecessary dissipation of oil or gas or reservoir energy;

(b) the inefficient storing of oil or gas;

(c) the locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes:

(i) a reduction in the quantity of oil or gas ultimately recoverable from a reservoir under prudent and economical operations;

(ii) unnecessary wells to be drilled; or

(iii) the loss or destruction of oil or gas either at the surface or subsurface; or

(d) the production of oil or gas in excess of:

(i) transportation or storage facilities; or

(ii) the amount reasonably required to be produced as a result of the proper drilling, completing, testing, or operating of a well or otherwise utilized on the lease from which it is produced.

Section 4. Section **40-6-4** is amended to read:

40-6-4. Board of Oil, Gas, and Mining created -- Functions -- Appointment of members -- Terms -- Chair -- Quorum -- Expenses.

(1) There is created within the Department of Natural Resources the Board of Oil, Gas, and Mining. The board shall be the policy making body for the Division of Oil, Gas, and Mining.

(2) The board shall consist of seven members appointed by the governor with the consent of the Senate. No more than four members shall be from the same political party.

~~[The]~~ In addition to the requirements of Section 79-2-203, the members shall have the following qualifications:

(a) two members knowledgeable in mining matters;

(b) two members knowledgeable in oil and gas matters;

(c) one member knowledgeable in ecological and environmental matters;

(d) one member who is a private land owner, owns a mineral or royalty interest and is knowledgeable in those interests; and

(e) one member who is knowledgeable in geological matters.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the consent of the Senate.

(b) The person appointed shall have the same qualifications as his predecessor.

(5) The board shall appoint its chair from the membership. Four members of the board shall constitute a quorum for the transaction of business and the holding of hearings.

(6) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

Section 5. Section **40-6-15** is amended to read:

40-6-15. Division created -- Functions -- Director of division -- Qualifications of program administrators.

There is created within the Department of Natural Resources the Division of Oil, Gas, and Mining. The division shall implement the policies and orders of the board and perform all other duties delegated by the board.

The director of the Division of Oil, Gas, and Mining shall be appointed by the director of the Department of Natural Resources with the concurrence of the Board of Oil, Gas, and Mining. The director shall be the executive and administrative head of the Division of Oil, Gas, and Mining and shall be a person experienced in administration and knowledgeable in the extraction of oil, gas, and minerals.

Within the division, the person administering the oil and gas program shall have the technical background to efficiently administer that program. The person administering the mining program shall have the technical background to efficiently administer that program.

Section 6. Section **40-6-17** is amended to read:

40-6-17. Cooperative research and development projects.

The board and the Division of Oil, Gas, and Mining are authorized to enter into cooperative agreements with the national, state or local governments, and with independent

organizations and institutions for the purpose of carrying out research and development experiments involving energy resources to the extent that the project is funded or partially funded and approved by the Legislature.

Section 7. Section **40-6-19** is amended to read:

40-6-19. Bond and Surety Forfeiture Trust Fund created -- Contents -- Use of fund monies.

(1) There is created a private-purpose trust fund known as the "Bond and Surety Forfeiture Trust Fund."

(2) Monies collected by the Division of Oil, Gas, and Mining as a result of bond or surety forfeitures shall be deposited in the fund.

(3) Interest earned on monies in the fund shall accrue to the fund.

(4) (a) Money from each forfeited bond or surety, together with interest, shall be used by the Division of Oil, Gas, and Mining to accomplish the requisite performance standards under the program to which the forfeited bond or surety corresponds.

(b) Any money not used for a project shall be returned to the rightful claimant.

Section 8. Section **40-8-4** is amended to read:

40-8-4. Definitions.

As used in this chapter:

(1) "Adjudicative proceeding" means:

(a) a division or board action or proceeding determining the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, permit, or license; or

(b) judicial review of a division or board action or proceeding specified in Subsection (1)(a).

(2) "Applicant" means a person who has filed a notice of intent to commence mining operations, or who has applied to the board for a review of a notice or order.

(3) (a) "Approved notice of intention" means a formally filed notice of intention to commence mining operations, including revisions to it, which has been approved under Section 40-8-13.

(b) An approved notice of intention is not required for small mining operations.

586 (4) "Board" means the Board of Oil, Gas, and Mining.

587 (5) "Conference" means an informal adjudicative proceeding conducted by the division
588 or board.

589 (6) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in the
590 form of consolidated rock, unconsolidated material, solutions, or occurring on the surface,
591 beneath the surface, or in the waters of the land from which any product useful to man may be
592 produced, extracted, or obtained or which is extracted by underground mining methods for
593 underground storage.

594 (b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, water,
595 geothermal steam, and oil and gas as defined in Title 40, Chapter 6, Board and Division of Oil,
596 Gas, and Mining, but includes oil shale and bituminous sands extracted by mining operations.

597 (7) "Development" means the work performed in relation to a deposit following its
598 discovery but prior to and in contemplation of production mining operations, aimed at, but not
599 limited to, preparing the site for mining operations, defining further the ore deposit by drilling
600 or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and
601 other related activities.

602 (8) "Division" means the Division of Oil, Gas, and Mining.

603 (9) "Emergency order" means an order issued by the board in accordance with the
604 provisions of Title 63G, Chapter 4, Administrative Procedures Act.

605 (10) (a) "Exploration" means surface-disturbing activities conducted for the purpose of
606 discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral
607 deposit, and identifying regions or specific areas in which deposits or mineral deposits are most
608 likely to exist.

609 (b) "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling
610 holes and digging pits or cuts; building of roads, and other access ways; and constructing and
611 operating other facilities related to these activities.

612 (11) "Hearing" means a formal adjudicative proceeding conducted by the board under
613 its procedural rules.

614 (12) (a) "Imminent danger to the health and safety of the public" means the existence
615 of a condition or practice, or a violation of a permit requirement or other requirement of this
616 chapter in a mining operation, which condition, practice, or violation could reasonably be

617 expected to cause substantial physical harm to persons outside the permit area before the
618 condition, practice, or violation can be abated.

619 (b) A reasonable expectation of death or serious injury before abatement exists if a
620 rational person, subjected to the same conditions or practices giving rise to the peril, would not
621 expose himself or herself to the danger during the time necessary for abatement.

622 (13) (a) "Land affected" means the surface and subsurface of an area within the state
623 where mining operations are being or will be conducted, including, but not limited to:

624 (i) on-site private ways, roads, and railroads;

625 (ii) land excavations;

626 (iii) exploration sites;

627 (iv) drill sites or workings;

628 (v) refuse banks or spoil piles;

629 (vi) evaporation or settling ponds;

630 (vii) stockpiles;

631 (viii) leaching dumps;

632 (ix) placer areas;

633 (x) tailings ponds or dumps; and

634 (xi) work, parking, storage, or waste discharge areas, structures, and facilities.

635 (b) All lands shall be excluded from the provisions of Subsection (13)(a) that would:

636 (i) be includable as land affected, but which have been reclaimed in accordance with an
637 approved plan, as may be approved by the board; and

638 (ii) lands in which mining operations have ceased prior to July 1, 1977.

639 (14) (a) "Mining operation" means activities conducted on the surface of the land for
640 the exploration for, development of, or extraction of a mineral deposit, including, but not
641 limited to, surface mining and the surface effects of underground and in situ mining, on-site
642 transportation, concentrating, milling, evaporation, and other primary processing.

643 (b) "Mining operation" does not include:

644 (i) the extraction of sand, gravel, and rock aggregate;

645 (ii) the extraction of oil and gas as defined in Title 40, Chapter 6, Board and Division
646 of Oil, Gas, and Mining;

647 (iii) the extraction of geothermal steam;

(iv) smelting or refining operations;

(v) off-site operations and transportation;

(vi) reconnaissance activities; or

(vii) activities which will not cause significant surface resource disturbance or involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

(15) "Notice" means:

(a) notice of intention, as defined in this chapter; or

(b) written information given to an operator by the division describing compliance conditions at a mining operation.

(16) "Notice of intention" means a notice to commence mining operations, including revisions to the notice.

(17) "Off-site" means the land areas that are outside of or beyond the on-site land.

(18) (a) "On-site" means the surface lands on or under which surface or underground mining operations are conducted.

(b) A series of related properties under the control of a single operator, but separated by small parcels of land controlled by others, will be considered to be a single site unless an exception is made by the division.

(19) "Operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mining operation or proposed mining operation.

(20) "Order" means written information provided by the division or board to an operator or other parties, describing the compliance status of a permit or mining operation.

(21) "Owner" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mineral deposit or the surface of lands employed in mining operations.

(22) "Permit area" means the area of land indicated on the approved map submitted by the operator with the application or notice to conduct mining operations.

(23) "Permit" means a permit or notice to conduct mining operations issued by the division.

(24) "Permittee" means a person holding, or who is required by Utah law to hold, a valid permit or notice to conduct mining operations.

(25) "Person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other governmental or business organization.

(26) "Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable, ecological condition and use which will be consistent with local environmental conditions.

(27) "Small mining operations" means mining operations which disturb or will disturb five or less surface acres at any given time.

(28) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

Section 9. Section **40-8-6** is amended to read:

40-8-6. Board -- Powers, functions, and duties.

In addition to those provided in Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining, the board has the following powers, functions, and duties:

(1) To enact rules according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are reasonably necessary to carry out the purposes of this chapter.

(2) To hold hearings and to issue orders or other appropriate instruments based upon the results of those hearings.

(3) To issue emergency orders according to the requirements and provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(4) To do all other things and take such other actions within the purposes of this act as may be necessary to enforce its provisions.

Section 10. Section **40-10-27** is amended to read:

40-10-27. Entry upon land adversely affected by past coal mining practices -- Conducting of studies or exploratory work -- State acquisition of land -- Lien -- Waste disposal fund -- Water pollution control and treatment plants.

(1) (a) If the board, after notice and hearing, makes a finding of fact as provided in

Subsection (1)(b), the agents, employees, or contractors of the division shall have the right to enter property adversely affected by past coal mining practices and any other property to have access to property adversely affected by past coal mining practices to do whatever is necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects.

(b) The board shall find that:

(i) land or water resources have been adversely affected by past coal mining practices;

(ii) the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and

(iii) the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices:

(A) are not known;

(B) are not readily available; or

(C) will not give permission for the state or its political subdivisions, their agents, employees, or contractors to enter upon the property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

(c) Notice of the division's right to enter the property shall be:

(i) given by mail, if the owners are known; and

(ii) posted upon the premises and advertised once in a newspaper of general circulation in the county in which the land lies, if the owners are not known.

(d) This entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and may not be construed as an act of condemnation of property nor of trespass on it.

(e) The monies expended for this work and the benefits accruing to the premises entered upon shall be chargeable against the land and shall mitigate or offset any claim in or any action brought by any owner of any interest in these premises for any alleged damages by virtue of the entry.

(f) Subsection (1) is not intended to create new rights of action or eliminate existing immunities.

(2) (a) The agents, employees, or contractors of the division may enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration,

741 reclamation, abatement, control, or prevention of these adverse effects.

742 (b) This entry shall be construed as an exercise of the police power for the protection of
743 public health, safety, and general welfare and may not be construed as an act of condemnation
744 of property or trespass on it.

745 (3) The state may acquire any land by purchase, donation, or condemnation which is
746 adversely affected by past coal mining practices if the board, after notice and hearing,
747 determines that acquisition of this land is necessary to successful reclamation and that:

748 (a) the acquired land, after restoration, reclamation, abatement, control, or prevention
749 of the adverse effects of past coal mining practices, will serve recreation and historic purposes,
750 conservation and reclamation purposes, or provide open space benefits; and

751 (b) (i) permanent facilities such as a treatment plant or a relocated stream channel will
752 be constructed on the land for the restoration, reclamation, abatement, control, or prevention of
753 the adverse effects of past coal mining practices; or

754 (ii) acquisitions of coal refuse disposal sites and all coal refuse on the sites will serve
755 the purposes of this chapter or that public ownership is desirable to meet emergency situations
756 and prevent recurrences of the adverse effects of past coal mining practices.

757 (4) (a) Title to all lands acquired under this section shall be in the name of the state.

758 (b) The price paid for land acquired under this section shall reflect the market value of
759 the land as adversely affected by past coal mining practices.

760 (5) (a) If land acquired under this section is considered suitable for industrial,
761 commercial, residential, or recreational development, the division, in conjunction with the
762 Division of Forestry, Fire, and State Lands, may sell this land by public sale under a system of
763 competitive bidding, at not less than fair market value, and under any other rules promulgated
764 to insure that the land is put to proper use consistent with local and state land use plans.

765 (b) (i) The state, when requested after appropriate public notice, shall hold a public
766 hearing with the appropriate notice, in the counties or appropriate political subdivisions of the
767 state in which lands acquired under this section are located.

768 (ii) The hearing shall be held at a time which shall afford local citizens and
769 governments the maximum opportunity to participate in the decision concerning the use or
770 disposition of the lands after restoration, reclamation, abatement, control, or prevention of the
771 adverse effects of past coal mining practices.

(6) (a) The state, through the division and the Division of Forestry, Fire, and State Lands, shall have the authority to accept lands acquired and reclaimed by the Secretary of the Interior pursuant to Section 407(h) of Public Law 95-87.

(b) The division has the authority to accept grants from the Secretary to carry out the purposes of Section 407(h) of Public Law 95-87.

(7) (a) Within six months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the division shall itemize the monies expended and may file a statement of those expenses in the office of the county recorder of the county in which the land lies, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the monies expended result in a significant increase in property value.

(b) This statement shall constitute a lien upon the land described in it.

(c) The lien may not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(d) A lien may not be filed against the property of any person, in accordance with this subsection who owned the surface prior to May 2, 1977, and who neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation performed.

(8) (a) The landowner may proceed to petition within 60 days after the filing of the lien to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(b) The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement provided for in Subsection (7).

(c) Any party aggrieved by the decision may appeal as provided by law.

(9) (a) The lien provided in this section shall be recorded in the office of the county recorder of the county in which the land lies.

(b) The statement shall constitute a lien upon the land as of the date of the expenditure of the monies and shall have priority as a lien second only to the lien of real estate taxes

803 imposed upon the land.

804 (10) (a) The division may fill any voids, seal any abandoned tunnels, shafts, and
805 entryways, and reclaim surface impacts of underground or surface mines which the division
806 determines could endanger life and property, constitute a hazard to the public health and safety,
807 or degrade the environment.

808 (b) The division may make expenditures and carry out the purposes of this section
809 without regard to the provisions of Subsections 40-10-25(2) and (3) only after all reclamation
810 with respect to abandoned coal lands or coal development impacts have been met, except for
811 those reclamation projects relating to the protection of the public health or safety.

812 (c) In those instances where mine waste piles are being reworked for conservation
813 purposes, the incremental costs of disposing of the wastes from these operations by filling
814 voids and sealing tunnels may be eligible for funding if the disposal of these wastes meets the
815 purposes of this section.

816 (d) The division may acquire by purchase, donation, easement, or otherwise those
817 interests in land it determines necessary to carry out the provisions of this section.

818 (11) (a) The division may request the attorney general, who is hereby authorized to
819 initiate, in addition to any other remedies provided for in this chapter, in any court of
820 competent jurisdiction, an action in equity for an injunction to restrain any interference with the
821 exercise of the right to enter or to conduct any work provided in this section.

822 (b) (i) The division, in conjunction with appropriate state agencies as determined in the
823 rules, may construct and operate plants for the control and treatment of water pollution
824 resulting from mine drainage.

825 (ii) The extent of this control and treatment of water pollution may be dependent upon
826 the ultimate use of the water.

827 (iii) This subsection may not be construed to repeal or supersede any portion of the
828 federal Water Pollution Control Act, 33 U.S.C. Sec. 1151 et seq., and no control or treatment
829 under this subsection shall in any way be less than that required under the federal Water
830 Pollution Control Act.

831 (iv) The construction of a plant may include major interceptors and other facilities
832 appurtenant to the plant.

833 (c) The division may transfer funds to other appropriate state agencies, in order to carry

out the reclamation activities authorized by this chapter.

Section 11. Section **41-22-12** is amended to read:

41-22-12. Restrictions on use of public lands.

(1) Except as provided in [~~Section 63-11-17~~] Sections 79-4-203 and 79-4-304, federal agencies are encouraged and agencies of the state and its subdivisions shall pursue opportunities to open public land to responsible off-highway vehicle use.

(2) A person may not operate and an owner of an off-highway vehicle may not give another person permission to operate an off-highway vehicle on any public land which is closed to off-highway vehicles.

Section 12. Section **53-13-103** is amended to read:

53-13-103. Law enforcement officer.

(1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" specifically includes the following:

(i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all persons specified in Sections 23-20-1.5 and [~~63-11-17.2~~] 79-4-501;

(iv) any police officer employed by any college or university;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(vii) employees of the Department of Natural Resources designated as peace officers by law;

(viii) school district police officers as designated by the board of education for the school district;

(ix) the executive director of the Department of Corrections and any correctional

enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(x) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xi) members of a law enforcement agency established by a private college or university provided that the college or university has been certified by the commissioner of public safety according to rules of the Department of Public Safety;

(xii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiii) transit police officers designated under Section 17B-2a-823.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise his authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections -- State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority, satisfactorily complete:

(a) the basic course at a certified law enforcement officer training academy or pass a certification examination as provided in Section 53-6-206, and be certified; and

(b) annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 13. Section **54-17-701** is amended to read:

54-17-701. Rules for carbon capture and geological storage.

(1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality, on behalf of the Board of Water Quality and the Board of Air Quality, respectively, in collaboration with the commission and the Division of Oil, Gas, and Mining and the Utah Geological Survey, shall present recommended rules to the Legislature's Administrative Rules Review Committee for the following in connection with carbon capture and accompanying geological sequestration of captured carbon:

- (a) site characterization approval;
- (b) geomechanical, geochemical, and hydrogeological simulation;
- (c) risk assessment;
- (d) mitigation and remediation protocols;
- (e) issuance of permits for test, injection, and monitoring wells;
- (f) specifications for the drilling, construction, and maintenance of wells;
- (g) issues concerning ownership of subsurface rights and pore space;
- (h) allowed composition of injected matter;
- (i) testing, monitoring, measurement, and verification for the entirety of the carbon capture and geologic sequestration chain of operations, from the point of capture of the carbon dioxide to the sequestration site;
- (j) closure and decommissioning procedure;
- (k) short- and long-term liability and indemnification for sequestration sites;
- (l) conversion of enhanced oil recovery operations to carbon dioxide geological sequestration sites; and
- (m) other issues as identified.

(2) The entities listed in Subsection (1) shall report to the Legislature's Administrative Rules Review Committee any proposals for additional statutory changes needed to implement rules contemplated under Subsection (1).

(3) On or before July 1, 2009, the entities listed in Subsection (1) shall submit to the Legislature's Public Utilities and Technology and Natural Resources, Agriculture, and Environment Interim Committees a progress report on the development of the recommended rules required by this part.

(4) The recommended rules developed under this section apply to the injection of

carbon dioxide and other associated injectants in allowable types of geological formations for the purpose of reducing emissions to the atmosphere through long-term geological sequestration as required by law or undertaken voluntarily or for subsequent beneficial reuse.

(5) The recommended rules developed under this section do not apply to the injection of fluids through the use of Class II injection wells as defined in 40 C.F.R. 144.6(b) for the purpose of enhanced hydrocarbon recovery.

(6) Rules recommended under this section shall:

(a) ensure that adequate health and safety standards are met;

(b) minimize the risk of unacceptable leakage from the injection well and injection zone for carbon capture and geologic sequestration; and

(c) provide adequate regulatory oversight and public information concerning carbon capture and geologic sequestration.

Section 14. Section **59-5-101** is amended to read:

59-5-101. Definitions.

As used in this part:

(1) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(3) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.

(4) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

(5) "Development well" means any oil and gas producing well other than a wildcat well.

(6) "Division" means the Division of Oil, Gas, and Mining established under Title 40, Chapter 6.

(7) "Enhanced recovery project" means:

(a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a reservoir for the purpose of:

(i) augmenting reservoir energy;

- 958 (ii) modifying the properties of the fluids or gases in a reservoir; or
959 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and
960 gas through the joint use of two or more well bores; and
- 961 (b) a project initially approved by the board as a new or expanded enhanced recovery
962 project on or after January 1, 1996.
- 963 (8) (a) "Gas" means:
- 964 (i) natural gas;
- 965 (ii) natural gas liquids; or
- 966 (iii) any mixture of natural gas and natural gas liquids.
- 967 (b) "Gas" does not include solid hydrocarbons.
- 968 (9) "Incremental production" means that part of production, certified by the Division of
969 Oil, Gas, and Mining, which is achieved from an enhanced recovery project that would not
970 have economically occurred under the reservoir conditions existing before the project and that
971 has been approved by the division as incremental production.
- 972 (10) "Natural gas" means those hydrocarbons, other than oil and other than natural gas
973 liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and
974 are produced and recovered at the wellhead in gaseous form.
- 975 (11) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas,
976 regardless of gravity, that are separated in gas processing plants from the natural gas as liquids
977 at the surface through the process of condensation, absorption, adsorption, or other methods.
- 978 (12) (a) "Oil" means:
- 979 (i) crude oil;
- 980 (ii) condensate; or
- 981 (iii) any mixture of crude oil and condensate.
- 982 (b) "Oil" does not include solid hydrocarbons.
- 983 (13) "Oil or gas field" means a geographical area overlying oil or gas structures. The
984 boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and
985 Division of Oil, Gas, and Mining under Title 40, Chapter 6, Board and Division of Oil, Gas,
986 and Mining.
- 987 (14) "Oil shale" means a group of fine black to dark brown shales containing
988 bituminous material that yields petroleum upon distillation.

(15) "Operator" means any person engaged in the business of operating an oil or gas well, regardless of whether the person is:

- (a) a working interest owner;
- (b) an independent contractor; or
- (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(16) "Owner" means any person having a working interest, royalty interest, payment out of production, or any other interest in the oil or gas produced or extracted from an oil or gas well in the state, or in the proceeds of this production.

(17) (a) Subject to Subsections (17)(b) and (c), "processing costs" means the reasonable actual costs of processing oil or gas to remove:

- (i) natural gas liquids; or
- (ii) contaminants.

(b) If processing costs are determined on the basis of an arm's-length contract, processing costs are the actual costs.

(c) (i) If processing costs are determined on a basis other than an arm's-length contract, processing costs are those reasonable costs associated with:

(A) actual operating and maintenance expenses, including oil or gas used or consumed in processing;

(B) overhead directly attributable and allocable to the operation and maintenance; and

(C) (I) depreciation and a return on undepreciated capital investment; or

(II) a cost equal to a return on the investment in the processing facilities as determined by the commission.

(ii) Subsection (17)(c)(i) includes situations where the producer performs the processing for the producer's product.

(18) "Producer" means any working interest owner in any lands in any oil or gas field from which gas or oil is produced.

(19) "Recompletion" means any downhole operation that is:

- (a) conducted to reestablish the producibility or serviceability of a well in any geologic interval; and

1020 (b) approved by the division as a recompletion.

1021 (20) "Research and development" means the process of inquiry or experimentation
1022 aimed at the discovery of facts, devices, technologies, or applications and the process of
1023 preparing those devices, technologies, or applications for marketing.

1024 (21) "Royalty interest owner" means the owner of an interest in oil or gas, or in the
1025 proceeds of production from the oil or gas who does not have the obligation to share in the
1026 expenses of developing and operating the property.

1027 (22) "Solid hydrocarbons" means:

1028 (a) coal;

1029 (b) gilsonite;

1030 (c) ozocerite;

1031 (d) elaterite;

1032 (e) oil shale;

1033 (f) tar sands; and

1034 (g) all other hydrocarbon substances that occur naturally in solid form.

1035 (23) "Stripper well" means:

1036 (a) an oil well whose average daily production for the days the well has produced has
1037 been 20 barrels or less of crude oil a day during any consecutive 12-month period; or

1038 (b) a gas well whose average daily production for the days the well has produced has
1039 been 60 MCF or less of natural gas a day during any consecutive 90-day period.

1040 (24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1041 and require further processing other than mechanical blending before becoming finished
1042 petroleum products.

1043 (25) (a) Subject to Subsections (25)(b) and (c), "transportation costs" means the
1044 reasonable actual costs of transporting oil or gas products from the well to the point of sale.

1045 (b) If transportation costs are determined on the basis of an arm's-length contract,
1046 transportation costs are the actual costs.

1047 (c) (i) If transportation costs are determined on a basis other than an arm's-length
1048 contract, transportation costs are those reasonable costs associated with:

1049 (A) actual operating and maintenance expenses, including fuel used or consumed in
1050 transporting the oil or gas;

1051 (B) overhead costs directly attributable and allocable to the operation and maintenance;

1052 and

1053 (C) depreciation and a return on undepreciated capital investment.

1054 (ii) Subsection (25)(c)(i) includes situations where the producer performs the
1055 transportation for the producer's product.

1056 (d) Regardless of whether transportation costs are determined on the basis of an
1057 arm's-length contract or a basis other than an arm's-length contract, transportation costs
1058 include:

1059 (i) carbon dioxide removal;

1060 (ii) compression;

1061 (iii) dehydration;

1062 (iv) gathering;

1063 (v) separating;

1064 (vi) treating; or

1065 (vii) a process similar to Subsections (25)(d)(i) through (vi), as determined by the
1066 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1067 Rulemaking Act.

1068 (26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

1069 (27) "Well or wells" means any extractive means from which oil or gas is produced or
1070 extracted, located within an oil or gas field, and operated by one person.

1071 (28) "Wildcat well" means an oil and gas producing well which is drilled and
1072 completed in a pool, as defined under Section 40-6-2, in which a well has not been previously
1073 completed as a well capable of producing in commercial quantities.

1074 (29) "Working interest owner" means the owner of an interest in oil or gas burdened
1075 with a share of the expenses of developing and operating the property.

1076 (30) (a) "Workover" means any downhole operation that is:

1077 (i) conducted to sustain, restore, or increase the producibility or serviceability of a well
1078 in the geologic intervals in which the well is currently completed; and

1079 (ii) approved by the division as a workover.

1080 (b) "Workover" does not include operations that are conducted primarily as routine
1081 maintenance or to replace worn or damaged equipment.

1082 Section 15. Section **59-7-614** is amended to read:

1083 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**

1084 **Certification -- Rulemaking authority.**

1085 (1) As used in this section:

1086 (a) "Active solar system":

1087 (i) means a system of equipment capable of collecting and converting incident solar
1088 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
1089 by a separate apparatus to storage or to the point of use; and

1090 (ii) includes water heating, space heating or cooling, and electrical or mechanical
1091 energy generation.

1092 (b) "Biomass system" means any system of apparatus and equipment for use in
1093 converting material into biomass energy, as defined in Section 59-12-102, and transporting that
1094 energy by separate apparatus to the point of use or storage.

1095 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,
1096 association, corporation, cooperative, or other entity under which business is conducted or
1097 transacted.

1098 (d) "Commercial energy system" means any active solar, passive solar, geothermal
1099 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or
1100 biomass system used to supply energy to a commercial unit or as a commercial enterprise.

1101 (e) "Commercial enterprise" means a business entity whose purpose is to produce
1102 electrical, mechanical, or thermal energy for sale from a commercial energy system.

1103 (f) (i) "Commercial unit" means any building or structure that a business entity uses to
1104 transact its business.

1105 (ii) Notwithstanding Subsection (1)(f)(i):

1106 (A) in the case of an active solar system used for agricultural water pumping or a wind
1107 system, each individual energy generating device shall be a commercial unit; and

1108 (B) if an energy system is the building or structure that a business entity uses to
1109 transact its business, a commercial unit is the complete energy system itself.

1110 (g) "Direct-use geothermal system" means a system of apparatus and equipment
1111 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,
1112 that is contained in the earth to meet energy needs, including heating a building, an industrial

1113 process, and aquaculture.

1114 (h) "Geothermal electricity" means energy contained in heat that continuously flows
1115 outward from the earth that is used as a sole source of energy to produce electricity.

1116 (i) "Geothermal heat-pump system" means a system of apparatus and equipment
1117 enabling the use of thermal properties contained in the earth at temperatures well below 100
1118 degrees Fahrenheit to help meet heating and cooling needs of a structure.

1119 (j) "Hydroenergy system" means a system of apparatus and equipment capable of
1120 intercepting and converting kinetic water energy into electrical or mechanical energy and
1121 transferring this form of energy by separate apparatus to the point of use or storage.

1122 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section
1123 59-10-103 and an individual as defined in Section 59-10-103.

1124 (l) "Passive solar system":

1125 (i) means a direct thermal system that utilizes the structure of a building and its
1126 operable components to provide for collection, storage, and distribution of heating or cooling
1127 during the appropriate times of the year by utilizing the climate resources available at the site;
1128 and

1129 (ii) includes those portions and components of a building that are expressly designed
1130 and required for the collection, storage, and distribution of solar energy.

1131 (m) "Residential energy system" means any active solar, passive solar, biomass,
1132 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
1133 supply energy to or for any residential unit.

1134 (n) "Residential unit" means any house, condominium, apartment, or similar dwelling
1135 unit that serves as a dwelling for a person, group of persons, or a family but does not include
1136 property subject to a fee under:

1137 (i) Section 59-2-404;

1138 (ii) Section 59-2-405;

1139 (iii) Section 59-2-405.1;

1140 (iv) Section 59-2-405.2; or

1141 (v) Section 59-2-405.3.

1142 (o) "Utah Geological Survey" means the Utah Geological Survey established in Section
1143 ~~[63-73-5]~~ 79-3-201.

(p) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (2)(a).

(ii) (A) A business entity is entitled to a tax credit equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of each credit under this Subsection (2)(a) may not exceed \$2,000 per residential unit.

(C) The credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(iii) If a business entity sells a residential unit to an individual taxpayer before making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-1014.

(b) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases or participates in the financing of a commercial energy system situated in Utah is entitled to a refundable tax credit as provided in this Subsection (2)(b) if the commercial energy system does not use wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity, and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial

1175 energy system as a commercial enterprise.

1176 (ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs
1177 of any commercial energy system installed, including installation costs, against any tax due
1178 under this chapter for the taxable year in which the commercial energy system is completed and
1179 placed in service.

1180 (B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the credit under this
1181 Subsection (2)(b) may not exceed \$50,000 per commercial unit.

1182 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
1183 system completed and placed in service on or after January 1, 2007.

1184 (iii) A business entity that leases a commercial energy system installed on a
1185 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can
1186 confirm that the lessor irrevocably elects not to claim the credit.

1187 (iv) Only the principal recovery portion of the lease payments, which is the cost
1188 incurred by a business entity in acquiring a commercial energy system, excluding interest
1189 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

1190 (v) A business entity that leases a commercial energy system is eligible to use the tax
1191 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation
1192 of the lease.

1193 (vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or
1194 carried back.

1195 (c) (i) For taxable years beginning on or after January 1, 2007, a business entity that
1196 owns a commercial energy system situated in Utah using wind, geothermal electricity, or
1197 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is
1198 entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

1199 (A) the commercial energy system supplies all or part of the energy required by
1200 commercial units owned or used by the business entity; or

1201 (B) the business entity sells all or part of the energy produced by the commercial
1202 energy system as a commercial enterprise.

1203 (ii) (A) A business entity is entitled to a tax credit under this section equal to the
1204 product of:

1205 (I) 0.35 cents; and

1206 (II) the kilowatt hours of electricity produced and either used or sold during the taxable
1207 year.

1208 (B) (I) The credit calculated under Subsection (2)(c)(ii)(A) may be claimed for
1209 production occurring during a period of 48 months beginning with the month in which the
1210 commercial energy system is placed in commercial service.

1211 (II) The credit allowed by this Subsection (2)(c) for each year may not be carried
1212 forward or carried back.

1213 (C) The credit under this Subsection (2)(c) is allowed for any commercial energy
1214 system completed and placed in service on or after January 1, 2007.

1215 (iii) A business entity that leases a commercial energy system installed on a
1216 commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can
1217 confirm that the lessor irrevocably elects not to claim the credit.

1218 (d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year
1219 in which the energy system is completed and placed in service.

1220 (ii) Additional energy systems or parts of energy systems may be claimed for
1221 subsequent years.

1222 (iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax
1223 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
1224 may be carried forward for a period which does not exceed the next four taxable years.

1225 (3) (a) Except as provided in Subsection (3)(b), the tax credits provided for under
1226 Subsection (2) are in addition to any tax credits provided under the laws or rules and
1227 regulations of the United States.

1228 (b) A purchaser of one or more solar units that claims a tax credit under Section
1229 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this
1230 section for that purchase.

1231 (c) (i) The Utah Geological Survey may set standards for residential and commercial
1232 energy systems claiming a credit under Subsections (2)(a) and (b) that cover the safety,
1233 reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems
1234 eligible for the tax credit use the state's renewable and nonrenewable energy resources in an
1235 appropriate and economic manner.

1236 (ii) The Utah Geological Survey may set standards for residential and commercial

energy systems that establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

(iii) A tax credit may not be taken under Subsection (2) until the Utah Geological Survey has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(d) The Utah Geological Survey and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(4) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax Review Commission shall review each tax credit provided by this section and make recommendations to the Revenue and Taxation Interim Committee concerning whether the credit should be continued, modified, or repealed.

(b) The Utah Tax Review Commission's report under Subsection (4)(a) shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

Section 16. Section **59-10-1014** is amended to read:

59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.

(1) As used in this part:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any entity under which business is conducted or transacted.

(d) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,

1268 that is contained in the earth to meet energy needs, including heating a building, an industrial
1269 process, and aquaculture.

1270 (e) "Geothermal electricity" means energy contained in heat that continuously flows
1271 outward from the earth that is used as a sole source of energy to produce electricity.

1272 (f) "Geothermal heat-pump system" means a system of apparatus and equipment
1273 enabling the use of thermal properties contained in the earth at temperatures well below 100
1274 degrees Fahrenheit to help meet heating and cooling needs of a structure.

1275 (g) "Hydroenergy system" means a system of apparatus and equipment capable of
1276 intercepting and converting kinetic water energy into electrical or mechanical energy and
1277 transferring this form of energy by separate apparatus to the point of use or storage.

1278 (h) "Passive solar system":

1279 (i) means a direct thermal system that utilizes the structure of a building and its
1280 operable components to provide for collection, storage, and distribution of heating or cooling
1281 during the appropriate times of the year by utilizing the climate resources available at the site;
1282 and

1283 (ii) includes those portions and components of a building that are expressly designed
1284 and required for the collection, storage, and distribution of solar energy.

1285 (i) "Residential energy system" means any active solar, passive solar, biomass,
1286 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
1287 supply energy to or for any residential unit.

1288 (j) "Residential unit" means any house, condominium, apartment, or similar dwelling
1289 unit that serves as a dwelling for a person, group of persons, or a family but does not include
1290 property subject to a fee under:

1291 (i) Section 59-2-404;

1292 (ii) Section 59-2-405;

1293 (iii) Section 59-2-405.1;

1294 (iv) Section 59-2-405.2; or

1295 (v) Section 59-2-405.3.

1296 (k) "Utah Geological Survey" means the Utah Geological Survey established in Section
1297 ~~[63-73-5]~~ 79-3-201.

1298 (l) "Wind system" means a system of apparatus and equipment capable of intercepting

1299 and converting wind energy into mechanical or electrical energy and transferring these forms of
1300 energy by a separate apparatus to the point of use or storage.

1301 (2) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust
1302 may claim a nonrefundable tax credit as provided in this section if:

1303 (a) a claimant, estate, or trust that is not a business entity purchases and completes or
1304 participates in the financing of a residential energy system to supply all or part of the energy for
1305 the claimant's, estate's, or trust's residential unit in the state; or

1306 (b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to
1307 another claimant, estate, or trust that is not a business entity before making a claim for a tax
1308 credit under Subsection (6) or Section 59-7-614; and

1309 (ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit
1310 to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or
1311 Subsection 59-7-614(2)(a)(iii).

1312 (3) (a) The tax credit described in Subsection (2) is equal to 25% of the reasonable
1313 costs of each residential energy system, including installation costs, against any income tax
1314 liability of the claimant, estate, or trust under this chapter for the taxable year in which the
1315 residential energy system is completed and placed in service.

1316 (b) The total amount of each tax credit under this section may not exceed \$2,000 per
1317 residential unit.

1318 (c) The tax credit under this section is allowed for any residential energy system
1319 completed and placed in service on or after January 1, 2007.

1320 (4) (a) The tax credit provided for in this section shall be claimed in the return for the
1321 taxable year in which the residential energy system is completed and placed in service.

1322 (b) Additional residential energy systems or parts of residential energy systems may be
1323 similarly claimed in returns for subsequent taxable years as long as the total amount claimed
1324 does not exceed \$2,000 per residential unit.

1325 (c) If the amount of the tax credit under this section exceeds the income tax liability of
1326 the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then
1327 the amount not used may be carried over for a period that does not exceed the next four taxable
1328 years.

1329 (5) (a) A claimant, estate, or trust that is not a business entity that leases a residential

energy system installed on a residential unit is eligible for the residential energy tax credit if that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(b) Only the principal recovery portion of the lease payments, which is the cost incurred by the claimant, estate, or trust in acquiring the residential energy system excluding interest charges and maintenance expenses, is eligible for the tax credits.

(c) A claimant, estate, or trust described in this Subsection (5) may use the tax credits for a period that does not exceed seven years from the initiation of the lease.

(6) (a) A claimant, estate, or trust that is a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the claimant, estate, or trust that is a business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (6).

(b) (i) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust that is a business entity is entitled to a nonrefundable tax credit equal to 25% of the reasonable costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000 per residential unit.

(iii) The tax credit under this Subsection (6) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(c) If a claimant, estate, or trust that is a business entity sells a residential unit to a claimant, estate, or trust that is not a business entity before making a claim for the tax credit under this Subsection (6), the claimant, estate, or trust that is a business entity may:

(i) assign its right to this tax credit to the claimant, estate, or trust that is not a business entity; and

(ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant, estate, or trust that is not a business entity had completed or participated in the costs of the

1361 residential energy system under this section.

1362 (7) (a) A tax credit under this section may be claimed for the taxable year in which the
1363 residential energy system is completed and placed in service.

1364 (b) Additional residential energy systems or parts of residential energy systems may be
1365 claimed for subsequent years.

1366 (c) If the amount of a tax credit under this section exceeds the tax liability of the
1367 claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount
1368 of the tax credit exceeding the tax liability may be carried over for a period which does not
1369 exceed the next four taxable years.

1370 (8) (a) Except as provided in Subsection (8)(b), tax credits provided for under this
1371 section are in addition to any tax credits provided under the laws or rules and regulations of the
1372 United States.

1373 (b) A purchaser of one or more solar units that claims a tax credit under Section
1374 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this
1375 section for that purchase.

1376 (9) (a) The Utah Geological Survey may set standards for residential energy systems
1377 that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to
1378 ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable
1379 energy resources in an appropriate and economic manner.

1380 (b) The Utah Geological Survey may set standards for residential and commercial
1381 energy systems that establish the reasonable costs of an energy system, as used in Subsections
1382 (3)(a) and (6)(b)(i), as an amount per unit of energy production.

1383 (c) A tax credit may not be taken under this section until the Utah Geological Survey
1384 has certified that the energy system has been completely installed and is a viable system for
1385 saving or production of energy from renewable resources.

1386 (10) The Utah Geological Survey and the commission may make rules in accordance
1387 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to
1388 implement this section.

1389 (11) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
1390 Review Commission shall review each tax credit provided by this section and make
1391 recommendations to the Revenue and Taxation Interim Committee concerning whether the

1392 credit should be continued, modified, or repealed.

1393 (b) The Utah Tax Review Commission's report under Subsection (11)(a) shall include
1394 information concerning the cost of the credit, the purpose and effectiveness of the credit, and
1395 the state's benefit from the credit.

1396 Section 17. Section **59-10-1106** is amended to read:

1397 **59-10-1106. Refundable renewable energy tax credit.**

1398 (1) As used in this section:

1399 (a) "Active solar system" is as defined in Section 59-10-1014.

1400 (b) "Biomass system" is as defined in Section 59-10-1014.

1401 (c) "Business entity" is as defined in Section 59-10-1014.

1402 (d) "Commercial energy system" means any active solar, passive solar, geothermal
1403 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or
1404 biomass system used to supply energy to a commercial unit or as a commercial enterprise.

1405 (e) "Commercial enterprise" means a business entity that:

1406 (i) is a claimant, estate, or trust; and

1407 (ii) has the purpose of producing electrical, mechanical, or thermal energy for sale from
1408 a commercial energy system.

1409 (f) (i) "Commercial unit" means any building or structure that a business entity that is a
1410 claimant, estate, or trust uses to transact its business.

1411 (ii) Notwithstanding Subsection (1)(f)(i):

1412 (A) in the case of an active solar system used for agricultural water pumping or a wind
1413 system, each individual energy generating device shall be a commercial unit; and

1414 (B) if an energy system is the building or structure that a business entity that is a
1415 claimant, estate, or trust uses to transact its business, a commercial unit is the complete energy
1416 system itself.

1417 (g) "Direct-use geothermal system" is as defined in Section 59-10-1014.

1418 (h) "Geothermal electricity" is as defined in Section 59-10-1014.

1419 (i) "Geothermal heat-pump system" is as defined in Section 59-10-1014.

1420 (j) "Hydroenergy system" is as defined in Section 59-10-1014.

1421 (k) "Passive solar system" is as defined in Section 59-10-1014.

1422 (l) "Utah Geological Survey" means the Utah Geological Survey established in Section

1423 ~~[63-73-5]~~ 79-3-201.

1424 (m) "Wind system" is as defined in Section 59-10-1014.

1425 (2) (a) (i) A business entity that is a claimant, estate, or trust that purchases or
1426 participates in the financing of a commercial energy system situated in Utah is entitled to a
1427 refundable tax credit as provided in this Subsection (2)(a) if the commercial energy system
1428 does not use wind, geothermal electricity, or biomass equipment capable of producing a total of
1429 660 or more kilowatts of electricity and:

1430 (A) the commercial energy system supplies all or part of the energy required by
1431 commercial units owned or used by the business entity that is a claimant, estate, or trust; or

1432 (B) the business entity that is a claimant, estate, or trust sells all or part of the energy
1433 produced by the commercial energy system as a commercial enterprise.

1434 (ii) (A) A business entity that is a claimant, estate, or trust is entitled to a tax credit of
1435 up to 10% of the reasonable costs of any commercial energy system installed, including
1436 installation costs, against any tax due under this chapter for the taxable year in which the
1437 commercial energy system is completed and placed in service.

1438 (B) Notwithstanding Subsection (2)(a)(ii)(A), the total amount of the credit under this
1439 Subsection (2)(a) may not exceed \$50,000 per commercial unit.

1440 (C) The credit under this Subsection (2)(a) is allowed for any commercial energy
1441 system completed and placed in service on or after January 1, 2007.

1442 (iii) A business entity that is a claimant, estate, or trust that leases a commercial energy
1443 system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(a)
1444 if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

1445 (iv) Only the principal recovery portion of the lease payments, which is the cost
1446 incurred by a business entity that is a claimant, estate, or trust in acquiring a commercial energy
1447 system, excluding interest charges and maintenance expenses, is eligible for the tax credit
1448 under this Subsection (2)(a).

1449 (v) A business entity that is a claimant, estate, or trust that leases a commercial energy
1450 system is eligible to use the tax credit under this Subsection (2)(a) for a period no greater than
1451 seven years from the initiation of the lease.

1452 (b) (i) A business entity that is a claimant, estate, or trust that owns a commercial
1453 energy system situated in Utah using wind, geothermal electricity, or biomass equipment

1454 capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable
1455 tax credit as provided in this section if:

1456 (A) the commercial energy system supplies all or part of the energy required by
1457 commercial units owned or used by the business entity that is a claimant, estate, or trust; or

1458 (B) the business entity that is a claimant, estate, or trust sells all or part of the energy
1459 produced by the commercial energy system as a commercial enterprise.

1460 (ii) A business entity that is a claimant, estate, or trust is entitled to a tax credit under
1461 this Subsection (2)(b) equal to the product of:

1462 (A) 0.35 cents; and

1463 (B) the kilowatt hours of electricity produced and either used or sold during the taxable
1464 year.

1465 (iii) The credit allowed by this Subsection (2)(b):

1466 (A) may be claimed for production occurring during a period of 48 months beginning
1467 with the month in which the commercial energy system is placed in service; and

1468 (B) may not be carried forward or back.

1469 (iv) A business entity that is a claimant, estate, or trust that leases a commercial energy
1470 system installed on a commercial unit is eligible for the tax credit under this section if the
1471 lessee can confirm that the lessor irrevocably elects not to claim the credit.

1472 (3) The tax credits provided for under this section are in addition to any tax credits
1473 provided under the laws or rules and regulations of the United States.

1474 (4) (a) The Utah Geological Survey may set standards for commercial energy systems
1475 claiming a tax credit under Subsection (2)(a) that cover the safety, reliability, efficiency,
1476 leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax
1477 credit use the state's renewable and nonrenewable energy resources in an appropriate and
1478 economic manner.

1479 (b) A tax credit may not be taken under this section until the Utah Geological Survey
1480 has certified that the commercial energy system has been completely installed and is a viable
1481 system for saving or production of energy from renewable resources.

1482 (5) The Utah Geological Survey and the commission may make rules in accordance
1483 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to
1484 implement this section.

1485 (6) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
1486 Review Commission shall review each tax credit provided by this section and make
1487 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1488 credit should be continued, modified, or repealed.

1489 (b) The Utah Tax Review Commission's report under Subsection (6)(a) shall include
1490 information concerning the cost of the credit, the purpose and effectiveness of the credit, and
1491 the state's benefit from the credit.

1492 Section 18. Section **59-12-103 (Effective 01/01/09)** is amended to read:

1493 **59-12-103 (Effective 01/01/09). Sales and use tax base -- Rates -- Effective dates --**
1494 **Use of sales and use tax revenues.**

1495 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1496 charged for the following transactions:

1497 (a) retail sales of tangible personal property made within the state;

1498 (b) amounts paid for:

1499 (i) telecommunications service, other than mobile telecommunications service, that
1500 originates and terminates within the boundaries of this state;

1501 (ii) mobile telecommunications service that originates and terminates within the
1502 boundaries of one state only to the extent permitted by the Mobile Telecommunications
1503 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1504 (iii) an ancillary service associated with a:

1505 (A) telecommunications service described in Subsection (1)(b)(i); or

1506 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1507 (c) sales of the following for commercial use:

1508 (i) gas;

1509 (ii) electricity;

1510 (iii) heat;

1511 (iv) coal;

1512 (v) fuel oil; or

1513 (vi) other fuels;

1514 (d) sales of the following for residential use:

1515 (i) gas;

- 1516 (ii) electricity;
1517 (iii) heat;
1518 (iv) coal;
1519 (v) fuel oil; or
1520 (vi) other fuels;
1521 (e) sales of prepared food;
1522 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
1523 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
1524 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
1525 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
1526 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
1527 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
1528 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1529 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1530 exhibition, cultural, or athletic activity;
1531 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1532 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
1533 (i) the tangible personal property; and
1534 (ii) parts used in the repairs or renovations of the tangible personal property described
1535 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
1536 of that tangible personal property;
1537 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1538 assisted cleaning or washing of tangible personal property;
1539 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1540 accommodations and services that are regularly rented for less than 30 consecutive days;
1541 (j) amounts paid or charged for laundry or dry cleaning services;
1542 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1543 this state the tangible personal property is:
1544 (i) stored;
1545 (ii) used; or
1546 (iii) otherwise consumed;

1547 (l) amounts paid or charged for tangible personal property if within this state the
1548 tangible personal property is:

1549 (i) stored;

1550 (ii) used; or

1551 (iii) consumed;

1552 (m) amounts paid or charged for prepaid telephone calling cards; and

1553 (n) amounts paid or charged for a sale:

1554 (i) (A) of a product that:

1555 (I) is transferred electronically; and

1556 (II) would be subject to a tax under this chapter if the product was transferred in a
1557 manner other than electronically; or

1558 (B) of a repair or renovation of a product that:

1559 (I) is transferred electronically; and

1560 (II) would be subject to a tax under this chapter if the product was transferred in a
1561 manner other than electronically; and

1562 (ii) regardless of whether the sale provides:

1563 (A) a right of permanent use of the product; or

1564 (B) a right to use the product that is less than a permanent use, including a right:

1565 (I) for a definite or specified length of time; and

1566 (II) that terminates upon the occurrence of a condition.

1567 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
1568 is imposed on a transaction described in Subsection (1) equal to the sum of:

1569 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1570 (A) 4.70%; and

1571 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1572 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1573 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
1574 State Sales and Use Tax Act; and

1575 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
1576 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1577 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

1578 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1579 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1580 transaction under this chapter other than this part.

1581 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1582 on a transaction described in Subsection (1)(d) equal to the sum of:

1583 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1584 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1585 transaction under this chapter other than this part.

1586 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1587 on amounts paid or charged for food and food ingredients equal to the sum of:

1588 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
1589 a tax rate of 1.75%; and

1590 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1591 amounts paid or charged for food and food ingredients under this chapter other than this part.

1592 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
1593 tangible personal property other than food and food ingredients, a state tax and a local tax is
1594 imposed on the entire bundled transaction equal to the sum of:

1595 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1596 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1597 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
1598 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1599 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
1600 Additional State Sales and Use Tax Act; and

1601 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
1602 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1603 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
1604 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1605 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
1606 described in Subsection (2)(a)(ii).

1607 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled
1608 transaction described in Subsection (2)(d)(i):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) Subject to Subsections (2) (f) and (g), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(f) (i) A tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

1640 (D) Subsection (2)(d)(i)(A)(I).

1641 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last

1642 billing period that began before the effective date of the repeal of the tax or the tax rate

1643 decrease if the billing period for the transaction begins before the effective date of the repeal of

1644 the tax or the tax rate decrease imposed under:

1645 (A) Subsection (2)(a)(i)(A);

1646 (B) Subsection (2)(b)(i);

1647 (C) Subsection (2)(c)(i); or

1648 (D) Subsection (2)(d)(i)(A)(I).

1649 (g) (i) For a tax rate described in Subsection (2) (g)(ii), if a tax due on a catalogue sale

1650 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal

1651 or change in a tax rate takes effect:

1652 (A) on the first day of a calendar quarter; and

1653 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

1654 (ii) Subsection (2) (g)(i) applies to the tax rates described in the following:

1655 (A) Subsection (2)(a)(i)(A);

1656 (B) Subsection (2)(b)(i);

1657 (C) Subsection (2)(c)(i); or

1658 (D) Subsection (2)(d)(i)(A)(I).

1659 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

1660 the commission may by rule define the term "catalogue sale."

1661 (3) (a) The following state taxes shall be deposited into the General Fund:

1662 (i) the tax imposed by Subsection (2)(a)(i)(A);

1663 (ii) the tax imposed by Subsection (2)(b)(i);

1664 (iii) the tax imposed by Subsection (2)(c)(i); or

1665 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1666 (b) The following local taxes shall be distributed to a county, city, or town as provided

1667 in this chapter:

1668 (i) the tax imposed by Subsection (2)(a)(ii);

1669 (ii) the tax imposed by Subsection (2)(b)(ii);

1670 (iii) the tax imposed by Subsection (2)(c)(ii); and

1671 (iv) the tax imposed by Subsection (2)(d)(i)(B).
1672 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1673 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
1674 through (g):
1675 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
1676 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
1677 (B) for the fiscal year; or
1678 (ii) \$17,500,000.
1679 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1680 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1681 Department of Natural Resources to:
1682 (A) implement the measures described in Subsections [~~63-34-14(4)(a)~~] 79-2-303(3)(a)
1683 through (d) to protect sensitive plant and animal species; or
1684 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1685 act, to political subdivisions of the state to implement the measures described in Subsections
1686 [~~63-34-14(4)(a)~~] 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
1687 (ii) Money transferred to the Department of Natural Resources under Subsection
1688 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1689 person to list or attempt to have listed a species as threatened or endangered under the
1690 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
1691 (iii) At the end of each fiscal year:
1692 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1693 Conservation and Development Fund created in Section 73-10-24;
1694 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1695 Program Subaccount created in Section 73-10c-5; and
1696 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1697 Program Subaccount created in Section 73-10c-5.
1698 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1699 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1700 created in Section 4-18-6.
1701 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

1702 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1703 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1704 water rights.

1705 (ii) At the end of each fiscal year:

1706 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1707 Conservation and Development Fund created in Section 73-10-24;

1708 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1709 Program Subaccount created in Section 73-10c-5; and

1710 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1711 Program Subaccount created in Section 73-10c-5.

1712 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1713 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1714 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1715 (ii) In addition to the uses allowed of the Water Resources Conservation and
1716 Development Fund under Section 73-10-24, the Water Resources Conservation and
1717 Development Fund may also be used to:

1718 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1719 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1720 quantifying surface and ground water resources and describing the hydrologic systems of an
1721 area in sufficient detail so as to enable local and state resource managers to plan for and
1722 accommodate growth in water use without jeopardizing the resource;

1723 (B) fund state required dam safety improvements; and

1724 (C) protect the state's interest in interstate water compact allocations, including the
1725 hiring of technical and legal staff.

1726 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1727 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1728 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1729 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1730 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
1731 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1732 (i) provide for the installation and repair of collection, treatment, storage, and

1733 distribution facilities for any public water system, as defined in Section 19-4-102;
1734 (ii) develop underground sources of water, including springs and wells; and
1735 (iii) develop surface water sources.

1736 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1737 2006, the difference between the following amounts shall be expended as provided in this
1738 Subsection (5), if that difference is greater than \$1:

1739 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1740 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
1741 (ii) \$17,500,000.

1742 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
1743 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1744 credits; and
1745 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1746 restoration.

1747 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1748 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1749 created in Section 73-10-24.

1750 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1751 remaining difference described in Subsection (5)(a) shall be:
1752 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1753 credits; and
1754 (B) expended by the Division of Water Resources for cloud-seeding projects
1755 authorized by Title 73, Chapter 15, Modification of Weather.

1756 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1757 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1758 created in Section 73-10-24.

1759 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
1760 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1761 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1762 Division of Water Resources for:
1763 (i) preconstruction costs:

1764 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1765 26, Bear River Development Act; and

1766 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1767 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1768 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1769 Chapter 26, Bear River Development Act;

1770 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1771 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1772 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
1773 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1774 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
1775 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

1776 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
1777 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
1778 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1779 incurred for employing additional technical staff for the administration of water rights.

1780 (g) At the end of each fiscal year, any unexpended dedicated credits described in
1781 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
1782 Fund created in Section 73-10-24.

1783 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1784 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
1785 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
1786 the Transportation Fund created by Section 72-2-102.

1787 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
1788 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
1789 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
1790 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
1791 transactions under Subsection (1).

1792 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
1793 have been paid off and the highway projects completed that are intended to be paid from
1794 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the

1795 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
1796 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
1797 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1798 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1799 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
1800 Subsection (7)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after
1801 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund
1802 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
1803 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a
1804 portion of the approximately 17% of sales and use tax revenues generated annually by the sales
1805 and use tax on vehicles and vehicle-related products:

- 1806 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1807 (ii) the tax imposed by Subsection (2)(b)(i);
- 1808 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1809 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1810 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
1811 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
1812 highway projects completed that are intended to be paid from revenues deposited in the
1813 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
1814 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
1815 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
1816 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes,
1817 which represents a portion of the approximately 17% of sales and use tax revenues generated
1818 annually by the sales and use tax on vehicles and vehicle-related products:

- 1819 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1820 (ii) the tax imposed by Subsection (2)(b)(i);
- 1821 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1822 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1823 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the
1824 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed
1825 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

(b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal year beginning on or after July 1, 2009, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

(c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2008-09, \$915,000 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

(11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).

(b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii), and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in

1857 Subsection (1).

1858 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into
1859 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
1860 charged for food and food ingredients, except for tax revenue generated by a bundled
1861 transaction attributable to food and food ingredients and tangible personal property other than
1862 food and food ingredients described in Subsection (2)(e).

1863 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
1864 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
1865 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
1866 .025% tax rate on the transactions described in Subsection (1) to be expended to address
1867 chokepoints in construction management.

1868 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
1869 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
1870 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
1871 and food ingredients and tangible personal property other than food and food ingredients
1872 described in Subsection (2)(e).

1873 Section 19. Section **59-23-4** is amended to read:

1874 **59-23-4. Brine shrimp royalty -- Royalty rate -- Commission to prepare billing**
1875 **statement -- Deposit of revenue.**

1876 (1) (a) Beginning on February 1, 2004, and ending on January 31, 2006, there is
1877 imposed for each tax year a brine shrimp royalty of the lesser of:

1878 (i) 3.75 cents multiplied by the total pounds of unprocessed brine shrimp eggs that are
1879 harvested in the state during the tax year; or

1880 (ii) \$550,000.

1881 (b) Beginning on February 1, 2006, there is imposed for each tax year a brine shrimp
1882 royalty of 3.75 cents multiplied by the pounds of unprocessed brine shrimp eggs that are
1883 harvested in the state during the tax year.

1884 (2) Beginning on February 1, 2004, and ending on January 31, 2006, the royalty
1885 amount due from a person for each tax year is:

1886 (a) if the brine shrimp royalty for the tax year is as described in Subsection (1)(a)(i),
1887 the gross volume of unprocessed brine shrimp eggs harvested in the state by that person during

1888 that tax year multiplied by 3.75 cents; or

1889 (b) if the brine shrimp royalty for the tax year is \$550,000, the gross volume of
1890 unprocessed brine shrimp eggs harvested in the state by that person for that tax year multiplied
1891 by the alternate royalty rate.

1892 (3) Beginning on February 1, 2006, the royalty amount due from a person for a tax year
1893 is the gross volume of unprocessed brine shrimp eggs harvested in the state by that person
1894 during that tax year multiplied by 3.75 cents.

1895 (4) (a) A person that harvests unprocessed brine shrimp eggs shall report to the
1896 Department of Natural Resources the total gross volume of unprocessed brine shrimp eggs
1897 harvested by that person for that tax year on or before the February 15 immediately following
1898 the last day of that tax year.

1899 (b) The Department of Natural Resources shall provide the following information to
1900 the commission on or before the March 1 immediately following the last day of a tax year:

1901 (i) the total gross volume of unprocessed brine shrimp eggs harvested for that tax year;
1902 and

1903 (ii) for each person that harvested brine shrimp eggs for that tax year:

1904 (A) the gross volume of unprocessed brine shrimp eggs harvested by that person for
1905 that tax year; and

1906 (B) a current billing address for that person; and

1907 (iii) any additional information required by the commission.

1908 (c) (i) The commission shall prepare and mail a billing statement to each person that
1909 harvested unprocessed brine shrimp eggs by the March 30 immediately following the last day
1910 of a tax year.

1911 (ii) The billing statement under Subsection (4)(c)(i) shall specify:

1912 (A) the gross volume of unprocessed brine shrimp eggs harvested by that person for
1913 that tax year;

1914 (B) the amount of brine shrimp royalty that the person owes; and

1915 (C) the date that the brine shrimp royalty payment is due as provided in Section
1916 59-23-5.

1917 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1918 commission may make rules prescribing the information required under Subsection (4)(b)(iii).

(5) All revenue generated by the brine shrimp royalty shall be deposited in the Species Protection Account created in Section ~~[63-34-14]~~ 79-2-303.

(6) Beginning with the 2004 interim, the Revenue and Taxation Interim Committee:

(a) shall review the annual brine shrimp royalty amount imposed under this section one or more times every five years;

(b) shall determine on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the annual brine shrimp royalty amount imposed under this section whether the royalty amount should be:

(i) continued;

(ii) modified; or

(iii) repealed; and

(c) may review any other issue related to the brine shrimp royalty imposed under this part as determined by the Revenue and Taxation Interim Committee.

Section 20. Section **63A-5-204** is amended to read:

63A-5-204. Specific powers and duties of director.

(1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same meaning as provided in Section 63C-9-102.

(2) (a) The director shall:

(i) recommend rules to the executive director for the use and management of facilities and grounds owned or occupied by the state for the use of its departments and agencies;

(ii) supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts or other specific legislation, to the various departments, commissions, institutions, and agencies in all buildings or space owned, leased, or rented by or to the state, except capitol hill facilities and capitol hill grounds and except as otherwise provided by law;

(iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3, Division of Facilities Construction and Management Leasing;

(iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature through the appropriations act or other specific legislation, and hold title to, in the name of the division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its agencies;

1950 (v) adopt and use a common seal, of a form and design determined by the director, and
1951 of which courts shall take judicial notice;

1952 (vi) file a description and impression of the seal with the Division of Archives;

1953 (vii) collect and maintain all deeds, abstracts of title, and all other documents
1954 evidencing title to or interest in property belonging to the state or any of its departments, except
1955 institutions of higher education and the School and Institutional Trust Lands Administration;

1956 (viii) report all properties acquired by the state, except those acquired by institutions of
1957 higher education, to the director of the Division of Finance for inclusion in the state's financial
1958 records;

1959 (ix) before charging a rate, fee, or other amount for services provided by the division's
1960 internal service fund to an executive branch agency, or to a subscriber of services other than an
1961 executive branch agency:

1962 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee
1963 established in Section 63A-1-114; and

1964 (B) obtain the approval of the Legislature as required by Section 63J-1-306;

1965 (x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed
1966 rates and fees, which analysis shall include a comparison of the division's rates and fees with
1967 the fees of other public or private sector providers where comparable services and rates are
1968 reasonably available;

1969 (xi) implement the State Building Energy Efficiency Program under Section
1970 63A-5-701; and

1971 (xii) take all other action necessary for carrying out the purposes of this chapter.

1972 (b) Legislative approval is not required for acquisitions by the division that cost less
1973 than \$250,000.

1974 (3) (a) The director shall direct or delegate maintenance and operations, preventive
1975 maintenance, and facilities inspection programs and activities for any department, commission,
1976 institution, or agency, except:

1977 (i) the State Capitol Preservation Board; and
1978 (ii) state institutions of higher education.

1979 (b) The director may choose to delegate responsibility for these functions only when
1980 the director determines that:

- 1981 (i) the department or agency has requested the responsibility;
1982 (ii) the department or agency has the necessary resources and skills to comply with
1983 facility maintenance standards approved by the State Building Board; and
1984 (iii) the delegation would result in net cost savings to the state as a whole.
- 1985 (c) The State Capitol Preservation Board and state institutions of higher education are
1986 exempt from Division of Facilities Construction and Management oversight.
- 1987 (d) Each state institution of higher education shall comply with the facility
1988 maintenance standards approved by the State Building Board.
- 1989 (e) Except for the State Capitol Preservation Board, agencies and institutions that are
1990 exempt from division oversight shall annually report their compliance with the facility
1991 maintenance standards to the division in the format required by the division.
- 1992 (f) The division shall:
- 1993 (i) prescribe a standard format for reporting compliance with the facility maintenance
1994 standards;
- 1995 (ii) report agency and institution compliance or noncompliance with the standards to
1996 the Legislature; and
- 1997 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are
1998 complying with the standards.
- 1999 (4) (a) In making any allocations of space under Subsection (2), the director shall:
- 2000 (i) conduct studies to determine the actual needs of each department, commission,
2001 institution, or agency; and
- 2002 (ii) comply with the restrictions contained in this Subsection (4).
- 2003 (b) The supervision and control of the legislative area is reserved to the Legislature.
- 2004 (c) The supervision and control of the judicial area is reserved to the judiciary for trial
2005 courts only.
- 2006 (d) The director may not supervise or control the allocation of space for entities in the
2007 public and higher education systems.
- 2008 (e) The supervision and control of capitol hill facilities and capitol hill grounds is
2009 reserved to the State Capitol Preservation Board.
- 2010 (5) The director may:
- 2011 (a) hire or otherwise procure assistance and services, professional, skilled, or

2012 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds
2013 provided for that purpose either through annual operating budget appropriations or from
2014 nonlapsing project funds;

2015 (b) sue and be sued in the name of the division; and

2016 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the
2017 Legislature, whatever real or personal property that is necessary for the discharge of the
2018 director's duties.

2019 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may
2020 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes
2021 other than administration that are under their control and management:

2022 (a) the Office of Trust Administrator;

2023 (b) the Department of Transportation;

2024 (c) the Division of Forestry, Fire, and State Lands;

2025 (d) the Department of Natural Resources;

2026 (e) the Utah National Guard;

2027 (f) any area vocational center or other institution administered by the State Board of
2028 Education;

2029 (g) any institution of higher education; and

2030 (h) the Utah Science Technology and Research Governing Authority.

2031 (7) The director shall ensure that any firm performing testing and inspection work
2032 governed by the American Society for Testing Materials Standard E-329 on public buildings
2033 under the director's supervision shall:

2034 (a) fully comply with the American Society for Testing Materials standard
2035 specifications for agencies engaged in the testing and inspection of materials known as ASTM
2036 E-329; and

2037 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

2038 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust
2039 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances
2040 held by it that are under its control.

2041 Section 21. Section **63A-5-222** is amended to read:

2042 **63A-5-222. Critical land near state prison -- Definitions -- Preservation as open**

**land -- Management and use of land -- Restrictions on transfer -- Wetlands development
-- Conservation easement.**

(1) For purposes of this section:

(a) "Corrections" means the Department of Corrections created under Section 64-13-2.

(b) "Critical land" means a parcel of approximately 250 acres of land owned by the division and located on the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake County, approximately the southern half of whose eastern boundary abuts the Denver and Rio Grande Western Railroad right of way.

(c) (i) "Open land" means land that is:

(A) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(B) used for:

(I) wildlife habitat;

(II) cultural or recreational use;

(III) watershed protection; or

(IV) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(ii) (A) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(B) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(I) enhance the natural, scenic, or aesthetic qualities of the land; or

(II) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(2) (a) (i) The critical land shall be preserved in perpetuity as open land.

(ii) The long-term ownership and management of the critical land should eventually be turned over to the Department of Natural Resources created under Section ~~[63-34-3]~~ 79-2-201 or another agency or entity that is able to accomplish the purposes and intent of this section.

(b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions

2074 should be taken on or with respect to the critical land, including:

2075 (i) the development and implementation of a program to eliminate noxious vegetation
2076 and restore and facilitate the return of natural vegetation on the critical land;

2077 (ii) the development of a system of trails through the critical land that is compatible
2078 with the preservation of the critical land as open land;

2079 (iii) the development and implementation of a program to restore the natural features of
2080 and improve the flows of the Jordan River as it crosses the critical land;

2081 (iv) the preservation of the archeological site discovered on the critical land and the
2082 development of an interpretive site in connection with the archeological discovery;

2083 (v) in restoring features on the critical land, the adoption of methods and plans that will
2084 enhance the critical land's function as a wildlife habitat;

2085 (vi) taking measures to reduce safety risks on the critical land; and

2086 (vii) the elimination or rehabilitation of a prison dump site on the critical land.

2087 (3) (a) Except as provided in Subsection (3)(b), no interest in the critical land may be
2088 sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that the
2089 critical land that is transferred will be preserved as open land in perpetuity.

2090 (b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to
2091 resolve boundary disputes with adjacent property owners and easements may be granted for
2092 trails and other purposes consistent with Subsection (2)(b) and with the preservation of the
2093 critical land as open land.

2094 (4) The division shall use the funds remaining from the appropriation under Laws of
2095 Utah 1998, Chapter 399, for the purposes of:

2096 (a) determining the boundaries and legal description of the critical land;

2097 (b) determining the boundaries and legal description of the adjacent property owned by
2098 the division;

2099 (c) fencing the critical land and adjacent land owned by the division where appropriate
2100 and needed; and

2101 (d) assisting to carry out the intent of this section.

2102 (5) (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the
2103 critical land may develop or allow a public agency or private entity to develop more wetlands
2104 on the critical land than exist naturally or existed previously.

(b) (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title may transfer jurisdiction of all or a portion of the critical land to a public agency or private entity to provide for the development and management of wetlands and designated wetland buffer areas.

(ii) Before transferring jurisdiction of any part of the critical land under Subsection (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to obtain approval from the appropriate federal agency to allow mitigation credits in connection with the critical land to be used for impacts occurring anywhere along the Wasatch Front.

(6) Notwithstanding any other provision of this section, corrections shall have access to the cooling pond located on the critical land as long as that access to and use of the cooling pond are not inconsistent with the preservation of the critical land as open land.

(7) The Department of Corrections, the division, and all other state departments, divisions, or agencies shall cooperate together to carry out the intent of this section.

(8) In order to ensure that the land referred to in this section is preserved as open land, the division shall, as soon as practicable, place the land under a perpetual conservation easement in favor of an independent party such as a reputable land conservation organization or a state or local government agency with experience in conservation easements.

Section 22. Section **63B-4-201** is amended to read:

63B-4-201. Legislative intent statements -- Capital facilities.

(1) (a) It is the intent of the Legislature that the University of Utah use institutional and other funds to plan, design, and construct two campus child care centers under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(b) The university shall work with Salt Lake City and the surrounding neighborhood to ensure site compatibility for future recreational development by the city.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Union Parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the stadium renovation under the supervision of the director of the Division of

2136 Facilities Construction and Management unless supervisory authority is delegated by the
2137 director;

2138 (c) the Huntsman Cancer Institute under the supervision of the director of the Division
2139 of Facilities Construction and Management unless supervisory authority is delegated by the
2140 director;

2141 (d) the Business Case Method Building under the supervision of the director of the
2142 Division of Facilities Construction and Management unless supervisory authority is delegated
2143 by the director; and

2144 (e) the Fine Arts Museum expansion under the supervision of the director of the
2145 Division of Facilities Construction and Management unless supervisory authority is delegated
2146 by the director.

2147 (3) It is the intent of the Legislature that Utah State University use institutional funds to
2148 plan, design, and construct:

2149 (a) a student health services facility under the supervision of the director of the
2150 Division of Facilities Construction and Management unless supervisory authority is delegated
2151 by the director;

2152 (b) a women's softball field under the supervision of the director of the Division of
2153 Facilities Construction and Management unless supervisory authority is delegated by the
2154 director;

2155 (c) an addition to the Nutrition and Food Services Building under the supervision of
2156 the director of the Division of Facilities Construction and Management unless supervisory
2157 authority is delegated by the director; and

2158 (d) a Human Resource Research Center under the supervision of the director of the
2159 Division of Facilities Construction and Management unless supervisory authority is delegated
2160 by the director.

2161 (4) It is the intent of the Legislature that Weber State University use institutional funds
2162 to plan, design, and construct:

2163 (a) a track renovation under the supervision of the director of the Division of Facilities
2164 Construction and Management unless supervisory authority is delegated by the director; and

2165 (b) the Dee Events Center offices under the supervision of the director of the Division
2166 of Facilities Construction and Management unless supervisory authority is delegated by the

2167 director.

2168 (5) It is the intent of the Legislature that Southern Utah University use:

2169 (a) institutional funds to plan, design, and construct an institutional residence under the
2170 supervision of the director of the Division of Facilities Construction and Management unless
2171 supervisory authority is delegated by the director; and

2172 (b) project revenues and other funds to plan, design, and construct the Shakespearean
2173 Festival support facilities under the supervision of the director of the Division of Facilities
2174 Construction and Management unless supervisory authority is delegated by the director.

2175 (6) It is the intent of the Legislature that Dixie College use institutional funds to plan,
2176 design, and construct an institutional residence under the supervision of the director of the
2177 Division of Facilities Construction and Management unless supervisory authority is delegated
2178 by the director.

2179 (7) It is the intent of the Legislature that the Division of Forestry, Fire, and State Lands
2180 use federal and other funds to plan, design, and construct a wetlands enhancement facility
2181 under the supervision of the director of the Division of Facilities Construction and
2182 Management unless supervisory authority is delegated by the director.

2183 (8) (a) As provided in Subsection 63A-5-209(2), the funds appropriated to the Project
2184 Reserve Fund may only be used for the award of contracts in excess of the construction budget
2185 if these funds are required to meet the intent of the project.

2186 (b) It is the intent of the Legislature that:

2187 (i) up to \$2,000,000 of the amount may be used to award the construction contract for
2188 the Ogden Court Building; and

2189 (ii) the need for any funds remaining as of December 31, 1995 be reviewed by the 1996
2190 Legislature.

2191 (9) (a) It is the intent of the Legislature that the State Building Ownership Authority,
2192 under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue
2193 or execute obligations or enter into or arrange for a lease purchase agreement in which
2194 participation interests may be created to provide up to \$539,700 for the purchase and
2195 demolition of the Keyston property and construction of parking facilities adjacent to the State
2196 Office of Education Building in Salt Lake City, with additional amounts necessary to:

2197 (i) pay costs of issuance;

2198 (ii) pay capitalized interest; and
2199 (iii) fund any debt service reserve requirements.

2200 (b) It is the intent of the Legislature that the authority seek out the most cost effective
2201 and prudent lease purchase plan available with technical assistance from the state treasurer, the
2202 director of the Division of Finance, and the director of the Governor's Office of Planning and
2203 Budget.

2204 (10) (a) It is the intent of the Legislature that the monies appropriated for Phase One of
2205 the Remodeling/Life Safety Upgrades of the Browning Fine Arts Center at Weber State
2206 University is to include design of full code compliance, life safety, space necessary to maintain
2207 required programs, and seismic upgrades.

2208 (b) The design shall identify the full scope and cost of Phase Two of the remodeling for
2209 funding consideration in the fiscal year 1997 budget cycle.

2210 (11) It is the intent of the Legislature that:

2211 (a) the fiscal year 1996 appropriation for the Davis County Higher Education land
2212 purchase includes up to \$250,000 for planning purposes;

2213 (b) the Division of Facilities Construction and Management, the Board of Regents, and
2214 the assigned institution of higher education work jointly to ensure the following elements are
2215 part of the planning process:

2216 (i) projections of student enrollment and programmatic needs for the next ten years;
2217 (ii) review and make recommendations for better use of existing space, current
2218 technologies, public/private partnerships, and other alternatives as a means to reduce the need
2219 for new facilities and still accommodate the projected student needs; and

2220 (iii) use of a master plan that includes issues of utilities, access, traffic circulation,
2221 drainage, rights of way, future developments, and other infrastructure items considered
2222 appropriate; and

2223 (c) every effort is used to minimize expenditures for this part until a definitive decision
2224 has been made by BRACC relative to Hill Air Force Base.

2225 (12) (a) It is the intent of the Legislature that the State Building Ownership Authority,
2226 under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue
2227 or execute obligations or enter into or arrange for a lease purchase agreement in which
2228 participation interests may be created, to provide up to \$7,400,000 for the acquisition and

2229 improvement of the Human Services Building located at 120 North 200 West, Salt Lake City,
2230 Utah, with associated parking for the Department of Human Services together with additional
2231 amounts necessary to:

- 2232 (i) pay costs of issuance;
- 2233 (ii) pay capitalized interest; and
- 2234 (iii) fund any debt service reserve requirements.

2235 (b) It is the intent of the Legislature that the authority seek out the most cost effective
2236 and prudent lease purchase plan available with technical assistance from the state treasurer, the
2237 director of the Division of Finance, and the director of the Governor's Office of Planning and
2238 Budget.

2239 (13) (a) It is the intent of the Legislature that the State Building Ownership Authority,
2240 under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue
2241 or execute obligations or enter into or arrange for a lease purchase agreement in which
2242 participation interests may be created to provide up to \$63,218,600 for the construction of a
2243 Salt Lake Courts Complex together with additional amounts necessary to:

- 2244 (i) pay costs of issuance;
- 2245 (ii) pay capitalized interest; and
- 2246 (iii) fund any debt service reserve requirements.

2247 (b) It is the intent of the Legislature that the authority seek out the most cost effective
2248 and prudent lease purchase plan available with technical assistance from the state treasurer, the
2249 director of the Division of Finance, and the director of the Governor's Office of Planning and
2250 Budget.

2251 (c) It is the intent of the Legislature that the Division of Facilities Construction and
2252 Management lease land to the State Building Ownership Authority for the construction of a
2253 Salt Lake Courts Complex.

2254 (14) It is the intent of the Legislature that:

2255 (a) the Board of Regents use the higher education design project monies to design no
2256 more than two higher education projects from among the following projects:

- 2257 (i) College of Eastern Utah - Student Center;
- 2258 (ii) Snow College - Noyes Building;
- 2259 (iii) University of Utah - Gardner Hall;

2260 (iv) Utah State University - Widtsoe Hall; or
2261 (v) Southern Utah University - Physical Education Building; and
2262 (b) the higher education institutions that receive approval from the Board of Regents to
2263 design projects under this chapter design those projects under the supervision of the director of
2264 the Division of Facilities Construction and Management unless supervisory authority is
2265 delegated by the director.

2266 (15) It is the intent of the Legislature that:

2267 (a) the Board of Regents may authorize the University of Utah to use institutional
2268 funds and donated funds to design Gardner Hall; and

2269 (b) if authorized by the Board of Regents, the University of Utah may use institutional
2270 funds and donated funds to design Gardner Hall under the supervision of the director of the
2271 Division of Facilities Construction and Management unless supervisory authority is delegated
2272 by the director.

2273 (16) It is the intent of the Legislature that the Division of Facilities Construction and
2274 Management use up to \$250,000 of the capital improvement monies to fund the site
2275 improvements required at the San Juan campus of the College of Eastern Utah.

2276 Section 23. Section **63C-11-102** is amended to read:

2277 **63C-11-102. Definitions.**

2278 As used in this chapter:

2279 (1) "Authority" means the Utah Sports Authority created by this chapter.

2280 (2) "Division of Parks and Recreation" means the Division of Parks and Recreation
2281 created in Section [~~63-11-17.1~~] 79-4-201.

2282 Section 24. Section **63G-2-206** is amended to read:

2283 **63G-2-206. Sharing records.**

2284 (1) A governmental entity may provide a record that is private, controlled, or protected
2285 to another governmental entity, a government-managed corporation, a political subdivision, the
2286 federal government, or another state if the requesting entity:

2287 (a) serves as a repository or archives for purposes of historical preservation,
2288 administrative maintenance, or destruction;

2289 (b) enforces, litigates, or investigates civil, criminal, or administrative law, and the
2290 record is necessary to a proceeding or investigation;

2291 (c) is authorized by state statute to conduct an audit and the record is needed for that
2292 purpose;

2293 (d) is one that collects information for presentence, probationary, or parole purposes; or
2294 (e) (i) is:

2295 (A) the Legislature;
2296 (B) a legislative committee;
2297 (C) a member of the Legislature; or
2298 (D) a legislative staff member acting at the request of the Legislature, a legislative
2299 committee, or a member of the Legislature; and

2300 (ii) requests the record in relation to the Legislature's duties including:

2301 (A) the preparation or review of a legislative proposal or legislation;
2302 (B) appropriations; or
2303 (C) an investigation or review conducted by the Legislature or a legislative committee.

2304 (2) (a) A governmental entity may provide a private, controlled, or protected record or
2305 record series to another governmental entity, a political subdivision, a government-managed
2306 corporation, the federal government, or another state if the requesting entity provides written
2307 assurance:

2308 (i) that the record or record series is necessary to the performance of the governmental
2309 entity's duties and functions;

2310 (ii) that the record or record series will be used for a purpose similar to the purpose for
2311 which the information in the record or record series was collected or obtained; and

2312 (iii) that the use of the record or record series produces a public benefit that outweighs
2313 the individual privacy right that protects the record or record series.

2314 (b) A governmental entity may provide a private, controlled, or protected record or
2315 record series to a contractor or a private provider according to the requirements of Subsection
2316 (6)(b).

2317 (3) (a) A governmental entity shall provide a private, controlled, or protected record to
2318 another governmental entity, a political subdivision, a government-managed corporation, the
2319 federal government, or another state if the requesting entity:

2320 (i) is entitled by law to inspect the record;
2321 (ii) is required to inspect the record as a condition of participating in a state or federal

2322 program or for receiving state or federal funds; or

2323 (iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e).

2324 (b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection

2325 63G-2-305(4).

2326 (4) Before disclosing a record or record series under this section to another

2327 governmental entity, another state, the United States, a foreign government, or to a contractor

2328 or private provider, the originating governmental entity shall:

2329 (a) inform the recipient of the record's classification and the accompanying restrictions

2330 on access; and

2331 (b) if the recipient is not a governmental entity to which this chapter applies, obtain the

2332 recipient's written agreement which may be by mechanical or electronic transmission that it

2333 will abide by those restrictions on access unless a statute, federal regulation, or interstate

2334 agreement otherwise governs the sharing of the record or record series.

2335 (5) A governmental entity may disclose a record to another state, the United States, or a

2336 foreign government for the reasons listed in Subsections (1) and (2) without complying with

2337 the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement,

2338 treaty, federal statute, compact, federal regulation, or state statute.

2339 (6) (a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this

2340 section is subject to the same restrictions on disclosure of the record as the originating entity.

2341 (b) A contractor or a private provider may receive information under this section only

2342 if:

2343 (i) the contractor or private provider's use of the record or record series produces a

2344 public benefit that outweighs the individual privacy right that protects the record or record

2345 series;

2346 (ii) the record or record series it requests:

2347 (A) is necessary for the performance of a contract with a governmental entity;

2348 (B) will only be used for the performance of the contract with the governmental entity;

2349 (C) will not be disclosed to any other person; and

2350 (D) will not be used for advertising or solicitation purposes; and

2351 (iii) the contractor or private provider gives written assurance to the governmental

2352 entity that is providing the record or record series that it will adhere to the restrictions of this

2353 Subsection (6)(b).

2354 (c) The classification of a record already held by a governmental entity and the
2355 applicable restrictions on disclosure of that record are not affected by the governmental entity's
2356 receipt under this section of a record with a different classification that contains information
2357 that is also included in the previously held record.

2358 (7) Notwithstanding any other provision of this section, if a more specific court rule or
2359 order, state statute, federal statute, or federal regulation prohibits or requires sharing
2360 information, that rule, order, statute, or federal regulation controls.

2361 (8) The following records may not be shared under this section:

2362 (a) records held by the Division of Oil, Gas, and Mining that pertain to any person and
2363 that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and
2364 Mining; and

2365 (b) records of publicly funded libraries as described in Subsection 63G-2-302(1)(c).

2366 (9) Records that may evidence or relate to a violation of law may be disclosed to a
2367 government prosecutor, peace officer, or auditor.

2368 Section 25. Section **63G-2-301** is amended to read:

2369 **63G-2-301. Records that must be disclosed.**

2370 (1) As used in this section:

2371 (a) "Business address" means a single address of a governmental agency designated for
2372 the public to contact an employee or officer of the governmental agency.

2373 (b) "Business email address" means a single email address of a governmental agency
2374 designated for the public to contact an employee or officer of the governmental agency.

2375 (c) "Business telephone number" means a single telephone number of a governmental
2376 agency designated for the public to contact an employee or officer of the governmental agency.

2377 (2) The following records are public except to the extent they contain information
2378 expressly permitted to be treated confidentially under the provisions of Subsections
2379 63G-2-201(3)(b) and (6)(a):

2380 (a) laws;

2381 (b) the name, gender, gross compensation, job title, job description, business address,
2382 business email address, business telephone number, number of hours worked per pay period,
2383 dates of employment, and relevant education, previous employment, and similar job

2384 qualifications of a current or former employee or officer of the governmental entity, excluding:
2385 (i) undercover law enforcement personnel; and
2386 (ii) investigative personnel if disclosure could reasonably be expected to impair the
2387 effectiveness of investigations or endanger any individual's safety;
2388 (c) final opinions, including concurring and dissenting opinions, and orders that are
2389 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except
2390 that if the proceedings were properly closed to the public, the opinion and order may be
2391 withheld to the extent that they contain information that is private, controlled, or protected;
2392 (d) final interpretations of statutes or rules by a governmental entity unless classified as
2393 protected as provided in Subsections 63G-2-305(16), (17), and (18);
2394 (e) information contained in or compiled from a transcript, minutes, or report of the
2395 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open
2396 and Public Meetings Act, including the records of all votes of each member of the
2397 governmental entity;
2398 (f) judicial records unless a court orders the records to be restricted under the rules of
2399 civil or criminal procedure or unless the records are private under this chapter;
2400 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of
2401 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning
2402 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust
2403 Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or
2404 other governmental entities that give public notice of:
2405 (i) titles or encumbrances to real property;
2406 (ii) restrictions on the use of real property;
2407 (iii) the capacity of persons to take or convey title to real property; or
2408 (iv) tax status for real and personal property;
2409 (h) records of the Department of Commerce that evidence incorporations, mergers,
2410 name changes, and uniform commercial code filings;
2411 (i) data on individuals that would otherwise be private under this chapter if the
2412 individual who is the subject of the record has given the governmental entity written
2413 permission to make the records available to the public;
2414 (j) documentation of the compensation that a governmental entity pays to a contractor

2415 or private provider;

2416 (k) summary data; and

2417 (l) voter registration records, including an individual's voting history, except for those

2418 parts of the record that are classified as private in Subsection 63G-2-302(1)(i).

2419 (3) The following records are normally public, but to the extent that a record is

2420 expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),

2421 Section 63G-2-302, 63G-2-304, or 63G-2-305:

2422 (a) administrative staff manuals, instructions to staff, and statements of policy;

2423 (b) records documenting a contractor's or private provider's compliance with the terms

2424 of a contract with a governmental entity;

2425 (c) records documenting the services provided by a contractor or a private provider to

2426 the extent the records would be public if prepared by the governmental entity;

2427 (d) contracts entered into by a governmental entity;

2428 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds

2429 by a governmental entity;

2430 (f) records relating to government assistance or incentives publicly disclosed,

2431 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a

2432 business in Utah, except as provided in Subsection 63G-2-305(35);

2433 (g) chronological logs and initial contact reports;

2434 (h) correspondence by and with a governmental entity in which the governmental entity

2435 determines or states an opinion upon the rights of the state, a political subdivision, the public,

2436 or any person;

2437 (i) empirical data contained in drafts if:

2438 (i) the empirical data is not reasonably available to the requester elsewhere in similar

2439 form; and

2440 (ii) the governmental entity is given a reasonable opportunity to correct any errors or

2441 make nonsubstantive changes before release;

2442 (j) drafts that are circulated to anyone other than:

2443 (i) a governmental entity;

2444 (ii) a political subdivision;

2445 (iii) a federal agency if the governmental entity and the federal agency are jointly

2446 responsible for implementation of a program or project that has been legislatively approved;
2447 (iv) a government-managed corporation; or
2448 (v) a contractor or private provider;
2449 (k) drafts that have never been finalized but were relied upon by the governmental
2450 entity in carrying out action or policy;
2451 (l) original data in a computer program if the governmental entity chooses not to
2452 disclose the program;
2453 (m) arrest warrants after issuance, except that, for good cause, a court may order
2454 restricted access to arrest warrants prior to service;
2455 (n) search warrants after execution and filing of the return, except that a court, for good
2456 cause, may order restricted access to search warrants prior to trial;
2457 (o) records that would disclose information relating to formal charges or disciplinary
2458 actions against a past or present governmental entity employee if:
2459 (i) the disciplinary action has been completed and all time periods for administrative
2460 appeal have expired; and
2461 (ii) the charges on which the disciplinary action was based were sustained;
2462 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School
2463 and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that
2464 evidence mineral production on government lands;
2465 (q) final audit reports;
2466 (r) occupational and professional licenses;
2467 (s) business licenses; and
2468 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar
2469 records used to initiate proceedings for discipline or sanctions against persons regulated by a
2470 governmental entity, but not including records that initiate employee discipline.
2471 (4) The list of public records in this section is not exhaustive and should not be used to
2472 limit access to records.

2473 Section 26. Section **63J-4-502** is amended to read:

2474 **63J-4-502. Membership -- Terms -- Chair -- Expenses.**

2475 (1) The Resource Development Coordinating Committee shall consist of the following
2476 25 members:

- 2477 (a) the state science advisor;
- 2478 (b) a representative from the Department of Agriculture and Food appointed by the
2479 executive director;
- 2480 (c) a representative from the Department of Community and Culture appointed by the
2481 executive director;
- 2482 (d) a representative from the Department of Environmental Quality appointed by the
2483 executive director;
- 2484 (e) a representative from the Department of Natural Resources appointed by the
2485 executive director;
- 2486 (f) a representative from the Department of Transportation appointed by the executive
2487 director;
- 2488 (g) a representative from the Governor's Office of Economic Development appointed
2489 by the director;
- 2490 (h) a representative from the Division of Housing and Community Development
2491 appointed by the director;
- 2492 (i) a representative from the Division of State History appointed by the director;
- 2493 (j) a representative from the Division of Air Quality appointed by the director;
- 2494 (k) a representative from the Division of Drinking Water appointed by the director;
- 2495 (l) a representative from the Division of Environmental Response and Remediation
2496 appointed by the director;
- 2497 (m) a representative from the Division of Radiation appointed by the director;
- 2498 (n) a representative from the Division of Solid and Hazardous Waste appointed by the
2499 director;
- 2500 (o) a representative from the Division of Water Quality appointed by the director;
- 2501 (p) a representative from the Division of Oil, Gas, and Mining appointed by the
2502 director;
- 2503 (q) a representative from the Division of Parks and Recreation appointed by the
2504 director;
- 2505 (r) a representative from the Division of Forestry, Fire, and State Lands appointed by
2506 the director;
- 2507 (s) a representative from the Utah Geological Survey appointed by the director;

2508 (t) a representative from the Division of Water Resources appointed by the director;
2509 (u) a representative from the Division of Water Rights appointed by the director;
2510 (v) a representative from the Division of Wildlife Resources appointed by the director;
2511 (w) a representative from the School and Institutional Trust Lands Administration
2512 appointed by the director;
2513 (x) a representative from the Division of Facilities Construction and Management
2514 appointed by the director; and
2515 (y) a representative from the Division of Homeland Security appointed by the director.
2516 (2) (a) As particular issues require, the committee may, by majority vote of the
2517 members present, and with the concurrence of the state planning coordinator, appoint
2518 additional temporary members to serve as ex officio voting members.
2519 (b) Those ex officio members may discuss and vote on the issue or issues for which
2520 they were appointed.
2521 (3) A chair shall be selected by a majority vote of committee members with the
2522 concurrence of the state planning coordinator.
2523 (4) (a) (i) Members who are not government employees shall receive no compensation
2524 or benefits for their services, but may receive per diem and expenses incurred in the
2525 performance of the member's official duties at the rates established by the Division of Finance
2526 under Sections 63A-3-106 and 63A-3-107.
2527 (ii) Members may decline to receive per diem and expenses for their service.
2528 (b) (i) State government officer and employee members who do not receive salary, per
2529 diem, or expenses from their agency for their service may receive per diem and expenses
2530 incurred in the performance of their official duties from the council at the rates established by
2531 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
2532 (ii) State government officer and employee members may decline to receive per diem
2533 and expenses for their service.
2534 Section 27. Section **65A-1-1** is amended to read:
2535 **65A-1-1. Definitions.**
2536 As used in this title:
2537 (1) "Advisory council" or "council" means the Forestry, Fire, and State Lands Advisory
2538 Council.

(2) "Division" means the Division of Forestry, Fire, and State Lands.

(3) "Multiple use" means the management of various surface and subsurface resources in a manner that will best meet the present and future needs of the people of this state.

(4) "Public trust assets" means those lands and resources, including sovereign lands, administered by the division.

(5) "Sovereign lands" means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.

(6) "State lands" means all lands administered by the division.

(7) "Sustained yield" means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.

Section 28. Section **65A-1-2** is amended to read:

65A-1-2. Forestry, Fire, and State Lands Advisory Council -- Creation -- Responsibilities.

(1) (a) The Forestry, Fire, and State Lands Advisory Council is created within the Department of Natural Resources.

(b) The council advises the Division of Forestry, Fire, and State Lands on matters relating to state land management.

(c) (i) Where reference is made in the Utah Code to the State Land Board or the Board of State Lands, it shall be construed as referring to the Forestry, Fire, and State Lands Advisory Council, but only if the reference pertains to advisory functions, powers, and duties related to state land management.

(ii) In all other instances, the reference shall be construed as referring to the Division of Forestry, Fire, and State Lands, except in matters related to school and institutional trust lands as defined in Section 53C-1-103, in which case the reference shall be considered as referring to the director of school and institutional trust lands or its board of trustees.

(2) In carrying out its responsibilities the council shall provide the division with advice and expertise for the administration of state lands under comprehensive land management policies using multiple use-sustained yield principles.

Section 29. Section **65A-1-3** is amended to read:

65A-1-3. Forestry, Fire, and State Lands Advisory Council -- Membership --**Chair -- Terms -- Quorum -- Per diem and expenses -- Duties.**

(1) (a) The Forestry, Fire, and State Lands Advisory Council shall be composed of 12 members as follows:

(i) one representative from Rich County;

(ii) one representative from Utah County;

(iii) four individuals representing the combination of Box Elder, Davis, Salt Lake, Tooele, and Weber counties, two of whom shall be representatives of industries concerned with sovereign lands;

(iv) one individual representing the combination of Cache, Emery, Garfield, Grand, Kane, San Juan, and Uintah counties;

(v) four individuals representing the state at large, one of whom shall be representative of environmental concerns and one of whom shall be representative of sporting concerns; and

(vi) the director of the division.

(b) The director of the division:

(i) shall serve as chair; and

(ii) may not vote except as may be necessary to break a tie vote.

(2) (a) Except as required by Subsection (b), as terms of current council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(3) Seven members of the council constitute a quorum.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) Meetings may be called by the chair or by a quorum of the council.

(6) The council shall meet not less than every six months.

(7) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance

2601 under Sections 63A-3-106 and 63A-3-107.

2602 (ii) Members may decline to receive per diem and expenses for their service.

2603 (b) (i) State government officer and employee members who do not receive salary, per
2604 diem, or expenses from their agency for their service may receive per diem and expenses
2605 incurred in the performance of their official duties from the council at the rates established by
2606 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

2607 (ii) State government officer and employee members may decline to receive per diem
2608 and expenses for their service.

2609 (8) (a) The council shall consider public comment and concern in formulating advice
2610 and counsel for the division.

2611 (b) Council meetings shall be widely advertised, with affected state agencies and public
2612 and private interests being directly notified of meeting schedules and agendas.

2613 (9) (a) The council may provide written recommendations to the director.

2614 (b) The director shall provide a written explanation of any written council
2615 recommendation the director chooses to disregard.

2616 Section 30. Section **65A-1-4** is amended to read:

2617 **65A-1-4. Division of Forestry, Fire, and State Lands -- Creation -- Power and**
2618 **authority.**

2619 (1) (a) The Division of Forestry, Fire, and State Lands is created within the Department
2620 of Natural Resources under the administration and general supervision of the executive director
2621 of the department.

2622 (b) The division is the executive authority for the management of sovereign lands, and
2623 the state's mineral estates on lands other than school and institutional trust lands, and shall
2624 provide for forestry and fire control activities as required in Section 65A-8-101.

2625 (2) The division shall adopt rules under Title 63G, Chapter 3, Utah Administrative
2626 Rulemaking Act, necessary to fulfill the purposes of this title.

2627 (3) The director of the Division of Forestry, Fire, and State Lands is the executive and
2628 administrative head of the division and shall be a person experienced in administration and
2629 management of natural resources.

2630 (4) The director shall inform the council:

2631 (a) in an annual meeting of the division's plans, policies, and budget; and

(b) of policy changes and developing conflicts.

(5) The director shall give the council an opportunity to advise on the changes and conflicts.

(6) (a) An aggrieved party to a final action by the director may appeal that action to the executive director of the Department of Natural Resources within 20 days after the action.

(b) The executive director shall rule on the director's action within 20 days after receipt of the appeal.

Section 31. Section **65A-8-302** is amended to read:

65A-8-302. Definitions.

As used in this part:

(1) "Alter" means to change the configuration of a heritage tree by pruning, trimming, topping, cutting, or by any other means.

(2) "Committee" means the Heritage Trees Advisory Committee.

(3) "Division" means the Division of Forestry, Fire, and State Lands.

(4) "Heritage tree" means any tree or group of trees designated as such by the division, in accordance with the following criteria:

(a) any live tree or group of trees indigenous to the state, or which has adapted exceptionally well to the climatic conditions of the state, or is one of a kind;

(b) any tree or group of trees that has exceptional national, state, or local historic significance;

(c) any tree or group of trees which has an exceptional size or exceptional form for its species;

(d) any tree or group of trees which has an exceptional age for its species; or

(e) any tree or group of trees in the state which is the sole representative of its species.

(5) "Person" means any individual, partnership, corporation, or association.

Section 32. Section **67-19-27** is amended to read:

67-19-27. Leave of absence with pay for disabled employees covered under other civil service systems.

(1) As used in this section:

(a) (i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose

2663 primary and principal duties consist of the prevention and detection of crime and the
2664 enforcement of criminal statutes of this state.

2665 (ii) "Law enforcement officer" specifically includes the following:

2666 (A) the commissioner of public safety and any member of the Department of Public
2667 Safety certified as a peace officer;

2668 (B) all persons specified in Sections 23-20-1.5 and ~~[63-11-17.2]~~ 79-4-501;

2669 (C) investigators for the Motor Vehicle Enforcement Division;

2670 (D) special agents or investigators employed by the attorney general;

2671 (E) employees of the Department of Natural Resources designated as peace officers by
2672 law;

2673 (F) the executive director of the Department of Corrections and any correctional
2674 enforcement or investigative officer designated by the executive director and approved by the
2675 commissioner of public safety and certified by the division; and

2676 (G) correctional enforcement, investigative, or adult probation and parole officers
2677 employed by the Department of Corrections serving on or before July 1, 1993.

2678 (b) "State correctional officer" means a correctional officer as defined in Section
2679 53-13-104 who is employed by the Department of Corrections.

2680 (2) (a) Each law enforcement officer, state correctional officer, operator license
2681 examiner, commercial license examiner, or Driver License Division hearing examiner who is
2682 injured in the course of employment shall be given a leave of absence with full pay during the
2683 period the employee is temporarily disabled.

2684 (b) This compensation is in lieu of all other compensation provided by law except
2685 hospital and medical services that are provided by law.

2686 (3) Each law enforcement officer or state correctional officer who is 100% disabled
2687 through a criminal act upon his person while in the lawful discharge of his duties, shall be
2688 given a leave of absence with full compensation until he retires or reaches the retirement age of
2689 62 years.

2690 Section 33. Section **72-2-117.5** is amended to read:

2691 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

2692 (1) As used in this section:

2693 (a) "Council of governments" means a decision-making body in each county composed

2694 of the county governing body and the mayors of each municipality in the county.

2695 (b) "Metropolitan planning organization" has the same meaning as defined in Section
2696 72-1-208.5.

2697 (2) There is created the Local Transportation Corridor Preservation Fund within the
2698 Transportation Fund.

2699 (3) The fund shall be funded from the following sources:

2700 (a) a local option highway construction and transportation corridor preservation fee
2701 imposed under Section 41-1a-1222;

2702 (b) appropriations made to the fund by the Legislature;

2703 (c) contributions from other public and private sources for deposit into the fund;

2704 (d) interest earnings on cash balances;

2705 (e) all monies collected from rents and sales of real property acquired with fund
2706 monies;

2707 (f) proceeds from general obligation bonds, revenue bonds, or other obligations issued
2708 as authorized by Title 63B, Bonds;

2709 (g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)
2710 and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund; and

2711 (h) sales and use tax revenues required by Section 59-12-1903 to be deposited into the
2712 fund.

2713 (4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund
2714 are nonlapsing.

2715 (b) The State Tax Commission shall provide the department with sufficient data for the
2716 department to allocate the revenues:

2717 (i) provided under Subsection (3)(a) to each county imposing a local option highway
2718 construction and transportation corridor preservation fee under Section 41-1a-1222;

2719 (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county
2720 option sales and use tax for transportation; and

2721 (iii) provided under Subsection (3)(h) to each county of the second class imposing the
2722 sales and use tax authorized by Section 59-12-1903.

2723 (c) The monies allocated under Subsection (4)(b):

2724 (i) shall be used for the purposes provided in this section for each county; and

2725 (ii) are allocated to each county as provided in this section:

2726 (A) with the condition that the state will not be charged for any asset purchased with

2727 the monies allocated under Subsection (4)(b); and

2728 (B) are considered a local matching contribution for the purposes described under

2729 Section 72-2-123 if used on a state highway.

2730 (d) Administrative costs of the department to implement this section shall be paid from

2731 the fund.

2732 (5) (a) The department shall authorize the expenditure of fund monies to allow a

2733 highway authority to acquire real property or any interests in real property for state, county, and

2734 municipal highway corridors subject to:

2735 (i) monies available in the fund to each county under Subsection (4)(b); and

2736 (ii) the provisions of this section.

2737 (b) Fund monies may be used to pay interest on debts incurred in accordance with this

2738 section.

2739 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired

2740 under this section but limited to a total of 5% of the purchase price of the property.

2741 (B) Any additional maintenance cost shall be paid from funds other than under this

2742 section.

2743 (C) Revenue generated by any property acquired under this section is excluded from

2744 the limitations under this Subsection (5)(c)(i).

2745 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired

2746 under this section.

2747 (d) Fund monies allocated under Subsection (4)(b) may be used by a county highway

2748 authority for countywide transportation planning if:

2749 (i) the county is not included in a metropolitan planning organization;

2750 (ii) the transportation planning is part of the county's continuing, cooperative, and

2751 comprehensive process for transportation planning, corridor preservation, right-of-way

2752 acquisition, and project programming;

2753 (iii) no more than four years allocation every 20 years to each county is used for

2754 transportation planning under this Subsection (5)(d); and

2755 (iv) the county otherwise qualifies to use the fund monies as provided under this

2756 section.

2757 (e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county
2758 highway authority for transportation corridor planning that is part of the corridor elements of an
2759 ongoing work program of transportation projects.

2760 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
2761 direction of:

2762 (A) the metropolitan planning organization if the county is within the boundaries of a
2763 metropolitan planning organization; or

2764 (B) the department if the county is not within the boundaries of a metropolitan
2765 planning organization.

2766 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to
2767 preserve highway corridors, promote long-term statewide transportation planning, save on
2768 acquisition costs, and promote the best interests of the state in a manner which minimizes
2769 impact on prime agricultural land.

2770 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve
2771 a highway corridor that is right-of-way:

2772 (A) in a county of the first or second class for a:

2773 (I) state highway;

2774 (II) a principal arterial highway as defined in Section 72-4-102.5;

2775 (III) a minor arterial highway as defined in Section 72-4-102.5; or

2776 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

2777 (B) in a county of the third, fourth, fifth, or sixth class for a:

2778 (I) state highway;

2779 (II) a principal arterial highway as defined in Section 72-4-102.5;

2780 (III) a minor arterial highway as defined in Section 72-4-102.5;

2781 (IV) a major collector highway as defined in Section 72-4-102.5; or

2782 (V) a minor collector road as defined in Section 72-4-102.5.

2783 (iii) The Local Transportation Corridor Preservation Fund may not be used for a
2784 highway corridor that is primarily a recreational trail as defined under Section ~~[63-11a-101]~~
2785 79-5-102.

2786 (b) (i) The department shall develop and implement a program to educate highway

2787 authorities on the objectives, application process, use, and responsibilities of the Local
2788 Transportation Corridor Preservation Fund as provided under this section to promote the most
2789 efficient and effective use of fund monies including priority use on designated high priority
2790 corridor preservation projects.

2791 (ii) The department shall develop a model transportation corridor property acquisition
2792 policy or ordinance that meets federal requirements for the benefit of a highway authority to
2793 acquire real property or any interests in real property under this section.

2794 (c) The department shall authorize the expenditure of fund monies after determining
2795 that the expenditure is being made in accordance with this section from applications that are:

2796 (i) made by a highway authority;

2797 (ii) endorsed by the council of governments; and

2798 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

2799 (7) (a) (i) A council of governments shall establish a council of governments
2800 endorsement process which includes prioritization and application procedures for use of the
2801 monies allocated to each county under this section.

2802 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
2803 endorsement of the preservation project by the:

2804 (A) metropolitan planning organization if the county is within the boundaries of a
2805 metropolitan planning organization; or

2806 (B) the department if the county is not within the boundaries of a metropolitan
2807 planning organization.

2808 (b) All fund monies shall be prioritized by each highway authority and council of
2809 governments based on considerations, including:

2810 (i) areas with rapidly expanding population;

2811 (ii) the willingness of local governments to complete studies and impact statements
2812 that meet department standards;

2813 (iii) the preservation of corridors by the use of local planning and zoning processes;

2814 (iv) the availability of other public and private matching funds for a project;

2815 (v) the cost-effectiveness of the preservation projects;

2816 (vi) long and short-term maintenance costs for property acquired; and

2817 (vii) whether the transportation corridor is included as part of:

2818 (A) the county and municipal master plan; and
2819 (B) (I) the statewide long range plan; or
2820 (II) the regional transportation plan of the area metropolitan planning organization if
2821 one exists for the area.

2822 (c) The council of governments shall:
2823 (i) establish a priority list of highway corridor preservation projects within the county;
2824 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
2825 approval; and
2826 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the
2827 members of the county legislative body.

2828 (d) A county's council of governments may only submit one priority list described in
2829 Subsection (7)(c)(i) per calendar year.

2830 (e) A county legislative body may only consider and approve one priority list described
2831 in Subsection (7)(c)(i) per calendar year.

2832 (8) (a) Unless otherwise provided by written agreement with another highway
2833 authority, the highway authority that holds the deed to the property is responsible for
2834 maintenance of the property.

2835 (b) The transfer of ownership for property acquired under this section from one
2836 highway authority to another shall include a recorded deed for the property and a written
2837 agreement between the highway authorities.

2838 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
2839 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for
2840 funds under this section.

2841 (b) The highway authority shall pledge the necessary part of the revenues of the Local
2842 Transportation Corridor Preservation Fund to the payment of principal and interest on the
2843 bonds or other obligations.

2844 (10) (a) A highway authority may not apply for monies under this section to purchase a
2845 right-of-way for a state highway unless the highway authority has:
2846 (i) a transportation corridor property acquisition policy or ordinance in effect that
2847 meets federal requirements for the acquisition of real property or any interests in real property
2848 under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(9).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the acquisition of real property or any interests in real property under this section.

Section 34. Section **72-5-203** is amended to read:

72-5-203. Public easement or right of entry -- Grant -- Application -- Conditions.

(1) (a) (i) Subject to Section 53C-1-302 and Subsection 53C-1-204(1), a temporary public easement or right of entry is granted for each highway existing prior to January 1, 1992, that terminates at or within or traverses any state lands and that has been constructed and maintained or used by a responsible authority.

(ii) The temporary public easement or right of entry granted under Subsection (1)(a)(i) is 100 feet wide for each class A and B highway.

(b) Each easement shall remain in effect through June 30, 2004, or until a permanent easement or right of entry has been established under Subsection (2), whichever is greater.

(2) (a) The School and Institutional Trust Lands Administration and the Division of Forestry, Fire, and State Lands shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing an application process for a responsible authority to obtain a permanent easement or right of entry over any temporary public easement granted under Subsection (1), subject to the provisions of Subsections (2)(b), (c), and (d).

(b) A grant of a permanent easement or right of entry across sovereign lands shall be made upon a showing to the Division of Forestry, Fire, and State Lands that continued use of the easement will provide a public benefit commensurate with the value of the permanent easement or right of entry.

(c) A grant of a permanent easement or right of entry across trust lands shall be made upon a showing to the School and Institutional Trust Lands Administration that the grant is consistent with the state's fiduciary responsibilities under Section 53C-1-302 and Subsection 53C-1-204(1).

(d) A grant of a permanent easement or right of entry across state lands other than sovereign and trust lands shall be made upon a showing to the managing unit of state government that the continued use will provide a public benefit commensurate with the value

2880 of the easement and will not unreasonably interfere with the purposes for which the land was
2881 obtained or is now held.

2882 (3) The grant of the temporary public easement or right of entry under Subsection (1) is
2883 consistent with the trust responsibilities of the state and in the best interest of the state.

2884 (4) A responsible authority that has been granted a permanent easement or right of
2885 entry over state lands may maintain the permanent easement or right of entry for the uses to
2886 which the permanent easement or right of entry was put prior to and including January 1, 1992,
2887 subject to the right of the managing unit of state government or private party to relocate the
2888 permanent easement or right of entry.

2889 (5) The grant of a permanent easement or right of entry under this section is effective
2890 on the date the highway was originally constructed or established for public use.

2891 Section 35. Section **72-11-204** is amended to read:

2892 **72-11-204. Vacancies -- Expenses -- Reimbursement -- Use of facilities of**
2893 **Department of Transportation -- Functions, powers, duties, rights, and responsibilities.**

2894 (1) When a vacancy occurs in the membership for any reason, the replacement shall be
2895 appointed for the unexpired term.

2896 (2) (a) (i) Members who are not government employees may not receive any
2897 compensation or benefits for their services, but may receive per diem and expenses incurred in
2898 the performance of the member's official duties at the rates established by the Division of
2899 Finance under Sections 63A-3-106 and 63A-3-107.

2900 (ii) Members may decline to receive per diem and expenses for their service.

2901 (b) (i) State government officer and employee members who do not receive salary, per
2902 diem, or expenses from their agency for their service may receive per diem and expenses
2903 incurred in the performance of their official duties from the committee at the rates established
2904 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

2905 (ii) State government officer and employee members may decline to receive per diem
2906 and expenses for their service.

2907 (3) Reimbursement shall be made from fees collected by the committee for services
2908 rendered by it.

2909 (4) The Department of Transportation shall supply the committee with office
2910 accommodation, space, equipment, and secretarial assistance the executive director considers

2911 adequate for the committee.

2912 (5) In addition to the functions, powers, duties, rights, and responsibilities granted to it
2913 under this chapter, the committee shall assume and have all of the functions, powers, duties,
2914 rights, and responsibilities of the Board of Parks and Recreation created in Section [~~63-11-12~~]
2915 79-4-301 in relation to passenger ropeway systems pursuant to that chapter.

2916 Section 36. Section **73-3-30** is amended to read:

2917 **73-3-30. Change application for an instream flow.**

2918 (1) As used in this section:

2919 (a) "Division" means the Division of Wildlife Resources, created in Section 23-14-1,
2920 or the Division of Parks and Recreation, created in Section [~~63-11-17.1~~] 79-4-201.

2921 (b) "Fishing group" means an organization that:

2922 (i) is exempt from taxation under Section 501(c)(3), Internal Revenue Code; and

2923 (ii) promotes fishing opportunities in the state.

2924 (c) "Fixed time change" means a change in a water right's point of diversion, place of
2925 use, or purpose of use for a fixed period of time longer than one year but not longer than ten
2926 years.

2927 (2) (a) A division may file a permanent or temporary change application, as provided
2928 by Section 73-3-3, for the purpose of providing water for an instream flow, within a specified
2929 section of a natural or altered stream channel, necessary within the state for:

2930 (i) the propagation of fish;

2931 (ii) public recreation; or

2932 (iii) the reasonable preservation or enhancement of the natural stream environment.

2933 (b) A division may file a change application on:

2934 (i) a perfected water right:

2935 (A) presently owned by the division;

2936 (B) purchased by the division for the purpose of providing water for an instream flow,
2937 through funding provided for that purpose by legislative appropriation; or

2938 (C) acquired by lease, agreement, gift, exchange, or contribution; or

2939 (ii) an appurtenant water right acquired with the acquisition of real property by the
2940 division.

2941 (c) A division may:

2942 (i) purchase a water right for the purposes provided in Subsection (2)(a) only with
2943 funds specifically appropriated by the Legislature for water rights purchases; or

2944 (ii) accept a donated water right without legislative approval.

2945 (d) A division may not acquire water rights by eminent domain for an instream flow or
2946 for any other purpose.

2947 (3) (a) A fishing group may file a fixed time change application on a perfected,
2948 consumptive water right for the purpose of providing water for an instream flow, within a
2949 specified section of a natural or altered stream channel, to protect or restore habitat for three
2950 native trout:

2951 (i) the Bonneville cutthroat;

2952 (ii) the Colorado River cutthroat; or

2953 (iii) the Yellowstone cutthroat.

2954 (b) Before filing an application authorized by Subsection (3)(a) to change a
2955 shareholder's proportionate share of water, the water company shall submit the decision to
2956 approve or deny the change request required by Subsection 73-3-3.5(3) to a vote of the
2957 shareholders:

2958 (i) in a manner outlined in the water company's articles of incorporation or bylaws;

2959 (ii) at an annual or regular meeting described in Section 16-6a-701; or

2960 (iii) at a special meeting convened under Section 16-6a-702.

2961 (c) The specified section of the natural or altered stream channel for the instream flow
2962 may not be further upstream than the water right's original point of diversion nor extend further
2963 downstream than the next physical point of diversion made by another person.

2964 (d) (i) The fishing group shall receive the Division of Wildlife Resources' director's
2965 approval of the proposed change before filing the fixed time change application with the state
2966 engineer.

2967 (ii) The director may approve the proposed change if:

2968 (A) the specified section of the stream channel is historic or current habitat for a specie
2969 listed in Subsections (3)(a)(i) through (iii);

2970 (B) the proposed purpose of use is consistent with an existing state management or
2971 recovery plan for that specie; and

2972 (C) the water right owner has received a certificate of inclusion from a person who has:

(I) entered into a programmatic Candidate Conservation Agreement with Assurances with the United States Fish and Wildlife Service, as authorized by 16 U.S.C. Sec. 1531(a)(5) and 1536(a)(1); and

(II) obtained an enhancement of survival permit, as authorized by 16 U.S.C. Sec. 1539(a)(1)(A).

(iii) The director may disapprove the proposed change if the proposed change would not be in the public's interest.

(e) (i) In considering a fixed time change application, the state engineer shall follow the same procedures as provided in this title for an application to appropriate water.

(ii) The rights and the duties of a fixed time change applicant are the same as provided in this title for an applicant to appropriate water.

(f) A fishing group may refile a fixed time change application by filing a written request with the state engineer no later than 60 days before the application expires.

(g) (i) The water right for which the state engineer has approved a fixed time change application will automatically revert to the point of diversion and place and purpose of use that existed before the approved fixed time change application when the fixed time change application expires or is terminated.

(ii) The applicant shall give written notice to the state engineer and the lessor, if applicable, if the applicant wishes to terminate a fixed time change application before the fixed time change application expires.

(4) In addition to the requirements of Subsection 73-3-3(4)(b), an application authorized by this section shall:

(a) set forth the legal description of the points on the stream channel between which the instream flow will be provided by the change application; and

(b) include appropriate studies, reports, or other information required by the state engineer demonstrating the necessity for the instream flow in the specified section of the stream and the projected benefits to the public resulting from the change.

(5) (a) For a permanent change application or a fixed time change application filed according to this section, 60 days before the date on which proof of change for an instream flow is due, the state engineer shall notify the applicant by mail or by any form of communication through which receipt is verifiable of the date when proof of change is due.

3004 (b) Before the date when proof of change is due, the applicant must either:
3005 (i) file a verified statement with the state engineer that the instream flow uses have
3006 been perfected, setting forth:
3007 (A) the legal description of the points on the stream channel between which the
3008 instream flow is provided;
3009 (B) detailed measurements of the flow of water in second-feet changed;
3010 (C) the period of use; and
3011 (D) any additional information required by the state engineer; or
3012 (ii) apply for a further extension of time as provided for in Section 73-3-12.
3013 (c) (i) Upon acceptance of the verified statement required under Subsection (5)(b)(i),
3014 the state engineer shall issue a certificate of change for instream flow use in accordance with
3015 Section 73-3-17.
3016 (ii) The certificate expires at the same time the fixed time change application expires.
3017 (6) No person may appropriate unappropriated water under Section 73-3-2 for the
3018 purpose of providing an instream flow.
3019 (7) Water used in accordance with this section is considered to be beneficially used, as
3020 required by Section 73-3-1.
3021 (8) A physical structure or physical diversion from the stream is not required to
3022 implement a change for instream flow use.
3023 (9) This section does not allow enlargement of the water right that the applicant seeks
3024 to change.
3025 (10) A change application authorized by this section may not impair a vested water
3026 right, including a water right used to generate hydroelectric power.
3027 (11) The state engineer or the water commissioner shall distribute water under an
3028 approved or a certificated instream flow change application according to the change
3029 application's priority date relative to the other water rights located within the stream section
3030 specified in the change application for instream flow.
3031 (12) An approved fixed time change application does not create a right of access across
3032 private property or allow any infringement of a private property right.
3033 Section 37. Section **73-10-2** is amended to read:
3034 **73-10-2. Board of Water Resources -- Members -- Appointment -- Terms --**

3035 **Vacancies.**

3036 (1) (a) The Board of Water Resources shall be comprised of eight members to be
3037 appointed by the governor with the consent of the Senate.

3038 (b) ~~[Not]~~ In addition to the requirements of Section 79-2-203, more than four members
3039 shall be from the same political party.

3040 (2) One member of the board shall be appointed from each of the following districts:

3041 (a) Bear River District, comprising the counties of Box Elder, Cache, and Rich;

3042 (b) Weber District, comprising the counties of Weber, Davis, Morgan, and Summit;

3043 (c) Salt Lake District, comprising the counties of Salt Lake and Tooele;

3044 (d) Provo River District, comprising the counties of Juab, Utah, and Wasatch;

3045 (e) Sevier River District, comprising the counties of Millard, Sanpete, Sevier, Piute,
3046 and Wayne;

3047 (f) Green River District, comprising the counties of Daggett, Duchesne, and Uintah;

3048 (g) Upper Colorado River District, comprising the counties of Carbon, Emery, Grand,
3049 and San Juan; and

3050 (h) Lower Colorado River District, comprising the counties of Beaver, Garfield, Iron,
3051 Washington, and Kane.

3052 (3) (a) Except as required by Subsection (3)(b), all appointments shall be for terms of
3053 four years.

3054 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
3055 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
3056 board members are staggered so that approximately half of the board is appointed every two
3057 years.

3058 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
3059 appointed for the unexpired term with the consent of the Senate and shall be from the same
3060 district as such person.

3061 (4) (a) Members shall receive no compensation or benefits for their services, but may
3062 receive per diem and expenses incurred in the performance of the member's official duties at
3063 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

3064 (b) Members may decline to receive per diem and expenses for their service.

3065 Section 38. Section **73-10c-2** is amended to read:

73-10c-2. Definitions.

As used in this chapter:

(1) "Board" means the Board of Water Resources created in Section 73-10-1.5.

(2) "Council" means the Water Development Coordinating Council created by Sections ~~[63-34-3]~~ 79-2-201 and 73-10c-3.

(3) "Credit enhancement agreement" means an agreement entered into according to this chapter between the Drinking Water Board or the Water Quality Board, on behalf of the state, and a political subdivision, for the purpose of providing methods and assistance to political subdivisions to improve the security for and marketability of drinking water project obligations and wastewater project obligations.

(4) "Drinking Water Board" means the Drinking Water Board appointed according to Section 19-4-103.

(5) "Drinking water or wastewater project obligation" means, as appropriate, any bond, note, or other obligation of a political subdivision issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading, or improving a drinking water project or wastewater project.

(6) (a) "Drinking water project" means any work or facility that is necessary or desirable to provide water for human consumption and other domestic uses and:

(i) has at least 15 service connections; or

(ii) serves an average of 25 individuals daily for at least 60 days of the year.

(b) "Drinking water project" includes:

(i) collection, treatment, storage, and distribution facilities under the control of the operator and used primarily with the system;

(ii) collection pretreatment or storage facilities used primarily in connection with the system but not under operator's control; and

(iii) studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks.

(7) "Financial assistance programs" means the various programs administered by the state whereby loans, grants, and other forms of financial assistance are made available to political subdivisions of this state to finance the costs of water and wastewater projects.

(8) "Hardship Grant Assessment" means the charge the Water Quality Board or

3097 Drinking Water Board assesses to recipients of loans made from the subaccount created in
3098 Subsection 73-10c-5(2)(b) or 73-10c-5(3)(b) in lieu of or in addition to interest charged on
3099 these loans.

3100 (9) "Nonpoint source project" means a facility, system, practice, study, activity, or
3101 mechanism that abates, prevents, or reduces the pollution of waters of this state by a nonpoint
3102 source.

3103 (10) "Political subdivision" means a county, city, town, improvement district, water
3104 conservancy district, special service district, drainage district, metropolitan water district,
3105 irrigation district, separate legal or administrative entity created under Title 11, Chapter 13,
3106 Interlocal Cooperation Act, or any other entity constituting a political subdivision under the
3107 laws of this state.

3108 (11) "Security fund" means the Water Development Security Fund created in Section
3109 73-10c-5.

3110 (12) "Wastewater project" means:

3111 (a) a sewer, storm or sanitary sewage system, sewage treatment facility, lagoon, sewage
3112 collection facility and system, and related pipelines, and all similar systems, works, and
3113 facilities necessary or desirable to collect, hold, cleanse, or purify any sewage or other polluted
3114 waters of this state; and

3115 (b) a study, pollution prevention activity, or pollution education activity that will
3116 protect the waters of this state.

3117 (13) "Waters of this state" means any stream, lake, pond, marsh, watercourse,
3118 waterway, well, spring, irrigation system, drainage system, or other body or accumulation of
3119 water whether surface, underground, natural, artificial, public, private, or other water resource
3120 of the state which is contained within or flows in or through the state.

3121 (14) "Water Quality Board" means the Water Quality Board appointed according to
3122 Section 19-5-103.

3123 Section 39. Section **73-10e-1** is amended to read:

3124 **73-10e-1. Creation of Water Development and Flood Mitigation Reserve Account**
3125 **-- Appropriation.**

3126 (1) There is created within the General Fund a restricted account known as the "Water
3127 Development and Flood Mitigation Reserve Account."

3128 (2) There is appropriated for fiscal year 1984-85 \$55,000,000 from the General Fund
3129 and \$6,000,000 from certificates of participation to the Water Development and Flood
3130 Mitigation Reserve Account. This appropriation may not lapse and shall carry over to fiscal
3131 year 1985-86.

3132 (3) There is appropriated for fiscal year 1985-86 \$35,000,000 from the General Fund to
3133 the Water Development and Flood Mitigation Reserve Account.

3134 (4) There is appropriated for fiscal year 1984-85 \$4,050,000 from the Water
3135 Development and Flood Mitigation Reserve Account to the Division of Water Resources to use
3136 for all of the following:

3137 (a) \$2,000,000 for final engineering studies for west desert pumping;

3138 (b) \$500,000 for implementation of the State Water Plan, including, but not limited to,
3139 engineering studies on Bear River upstream diversion and storage projects and Hatch Town
3140 Reservoir;

3141 (c) (i) \$750,000 to prepare final design reports and cost estimates for the following:

3142 (A) Option A - No. Davis WWTP, West Kaysville, Centerville, Bard, West Bountiful,
3143 So. Davis No. WWTP, Phillips, Woods Cross, Jordan River WWTP, and the Salt Lake
3144 International Airport; and

3145 (B) Option B - Antelope Island roadway dikes.

3146 (ii) It is the intent of the Legislature to choose between Options A and B after the final
3147 design reports are completed. The final design reports for Option B shall be completed by
3148 consultants other than those who prepared the original report. The reports for both Options A
3149 and B shall clearly indicate the following for each alternative:

3150 (A) estimated construction costs;

3151 (B) estimated costs of operation and maintenance;

3152 (C) estimated time necessary for completion;

3153 (D) benefits with respect to flood control, tourism, recreation, long-term second use,
3154 and new access to Antelope Island and marsh lands; and

3155 (E) impact on roads and esthetic land features during construction.

3156 (d) \$250,000 to prepare final design reports for the following projects:

3157 Corrine-WWTP, Plain City-WWTP, Perry-WWTP, and Little Mtn.-WWTP;

3158 (e) \$500,000 to construct the South Shore project; and

3159 (f) \$50,000 to reevaluate inter-island diking between South Shore, Antelope Island,
3160 Fremont Island, and Promontory Point.

3161 (5) There is appropriated for fiscal year 1984-85 \$16,300,000 from the Water
3162 Development and Flood Mitigation Reserve Account to the Community Development/Disaster
3163 Relief Board for the following:

3164 (a) \$4,000,000 to use as a match on diking projects built by the Army Corps of
3165 Engineers; and

3166 (b) (i) \$12,300,000 to provide grants to appropriate governmental entities to increase
3167 the carrying capacity of the Jordan River. The grants shall be made without requiring matching
3168 funds from any other governmental entity and shall only be made if an agreement is entered
3169 into by the affected governmental entities resolving disputed issues of responsibility. It is the
3170 intent of the Legislature to consider the distribution of the 1/8% sales and use tax increase as
3171 the contribution from the affected governmental entities.

3172 (ii) Any portion of the \$12,300,000 appropriated under Subsection (5) (b) (i) which is
3173 not used for the purposes described in that subsection shall be transferred to the Division of
3174 Parks and Recreation for the purposes described in Section ~~[63-11-17.5]~~ 79-4-802. After this
3175 money is transferred to the Division of Parks and Recreation, the money is nonlapsing. The
3176 money may not be used for any project specified by the Division of Parks and Recreation until
3177 the political subdivision having jurisdiction over the appropriate area contributes 50% of the
3178 costs of the project to the state. This contribution may be in the form of money, property, or
3179 services, or any combination of these, which can be used for the specified project.

3180 (6) Interest accrued on the money appropriated into the Water Development and Flood
3181 Mitigation Reserve Account shall be deposited into the Water Resources Conservation and
3182 Development Fund as the interest accrues.

3183 (7) All money not appropriated from the Water Development and Flood Mitigation
3184 Reserve Account by September 1, 1985, shall be deposited into the Water Resources
3185 Conservation and Development Fund.

3186 Section 40. Section **76-6-206.2** is amended to read:

3187 **76-6-206.2. Criminal trespass on state park lands -- Penalties.**

3188 (1) For purposes of this section:

3189 (a) "Authorization" means specific written permission by, or contractual agreement

3190 with, the Division of Parks and Recreation.

3191 (b) "Criminal trespass" means the elements of the crime of criminal trespass, as set
3192 forth in Section 76-6-206.

3193 (c) "Division" means the Division of Parks and Recreation, [~~as referred to in Section~~
3194 ~~63-11-3-1~~] created in Section 79-4-201.

3195 (d) "State park lands" means all lands administered by the division.

3196 (2) A person is guilty of criminal trespass on state park lands and is liable for the civil
3197 damages prescribed in Subsection (5) if, under circumstances not amounting to a greater
3198 offense, and without authorization, the person:

3199 (a) constructs improvements or structures on state park lands;

3200 (b) uses or occupies state park lands for more than 30 days after the cancellation or
3201 expiration of authorization;

3202 (c) knowingly or intentionally uses state park lands for commercial gain;

3203 (d) intentionally or knowingly grazes livestock on state park lands, except as provided
3204 in Section 72-3-112; or

3205 (e) remains, after being ordered to leave by someone with actual authority to act for the
3206 division, or by a law enforcement officer.

3207 (3) A person is not guilty of criminal trespass if that person enters onto state park
3208 lands:

3209 (a) without first paying the required fee; and

3210 (b) for the sole purpose of pursuing recreational activity.

3211 (4) A violation of Subsection (2) is a class B misdemeanor.

3212 (5) In addition to restitution, as provided in Section 76-3-201, a person who commits
3213 any act described in Subsection (2) may also be liable for civil damages in the amount of three
3214 times the value of:

3215 (a) damages resulting from a violation of Subsection (2);

3216 (b) the water, mineral, vegetation, improvement, or structure on state park lands that is
3217 removed, destroyed, used, or consumed without authorization;

3218 (c) the historical, prehistorical, archaeological, or paleontological resource on state
3219 park lands that is removed, destroyed, used, or consumed without authorization; or

3220 (d) the consideration which would have been charged by the division for unauthorized

3221 use of the land and resources during the period of trespass.

3222 (6) Civil damages under Subsection (5) may be collected in a separate action by the
3223 division, and shall be deposited in the State Parks Fees Restricted Account as established in
3224 Section [~~63-11-66~~] 79-4-402.

3225 Section 41. Section **78A-3-102** is amended to read:

3226 **78A-3-102. Supreme Court jurisdiction.**

3227 (1) The Supreme Court has original jurisdiction to answer questions of state law
3228 certified by a court of the United States.

3229 (2) The Supreme Court has original jurisdiction to issue all extraordinary writs and
3230 authority to issue all writs and process necessary to carry into effect its orders, judgments, and
3231 decrees or in aid of its jurisdiction.

3232 (3) The Supreme Court has appellate jurisdiction, including jurisdiction of
3233 interlocutory appeals, over:

3234 (a) a judgment of the Court of Appeals;

3235 (b) cases certified to the Supreme Court by the Court of Appeals prior to final
3236 judgment by the Court of Appeals;

3237 (c) discipline of lawyers;

3238 (d) final orders of the Judicial Conduct Commission;

3239 (e) final orders and decrees in formal adjudicative proceedings originating with:

3240 (i) the Public Service Commission;

3241 (ii) the State Tax Commission;

3242 (iii) the School and Institutional Trust Lands Board of Trustees;

3243 (iv) the Board of Oil, Gas, and Mining;

3244 (v) the state engineer; or

3245 (vi) the executive director of the Department of Natural Resources reviewing actions of
3246 the Division of Forestry, Fire, and State Lands;

3247 (f) final orders and decrees of the district court review of informal adjudicative
3248 proceedings of agencies under Subsection (3)(e);

3249 (g) a final judgment or decree of any court of record holding a statute of the United
3250 States or this state unconstitutional on its face under the Constitution of the United States or the
3251 Utah Constitution;

3252 (h) interlocutory appeals from any court of record involving a charge of a first degree
3253 or capital felony;

3254 (i) appeals from the district court involving a conviction or charge of a first degree
3255 felony or capital felony;

3256 (j) orders, judgments, and decrees of any court of record over which the Court of
3257 Appeals does not have original appellate jurisdiction; and

3258 (k) appeals from the district court of orders, judgments, or decrees ruling on legislative
3259 subpoenas.

3260 (4) The Supreme Court may transfer to the Court of Appeals any of the matters over
3261 which the Supreme Court has original appellate jurisdiction, except:

3262 (a) capital felony convictions or an appeal of an interlocutory order of a court of record
3263 involving a charge of a capital felony;

3264 (b) election and voting contests;

3265 (c) reapportionment of election districts;

3266 (d) retention or removal of public officers;

3267 (e) matters involving legislative subpoenas; and

3268 (f) those matters described in Subsections (3)(a) through (d).

3269 (5) The Supreme Court has sole discretion in granting or denying a petition for writ of
3270 certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall
3271 review those cases certified to it by the Court of Appeals under Subsection (3)(b).

3272 (6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4,
3273 Administrative Procedures Act, in its review of agency adjudicative proceedings.

3274 Section 42. Section **78A-4-103** is amended to read:

3275 **78A-4-103. Court of Appeals jurisdiction.**

3276 (1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue
3277 all writs and process necessary:

3278 (a) to carry into effect its judgments, orders, and decrees; or

3279 (b) in aid of its jurisdiction.

3280 (2) The Court of Appeals has appellate jurisdiction, including jurisdiction of
3281 interlocutory appeals, over:

3282 (a) the final orders and decrees resulting from formal adjudicative proceedings of state

3283 agencies or appeals from the district court review of informal adjudicative proceedings of the
3284 agencies, except the Public Service Commission, State Tax Commission, School and
3285 Institutional Trust Lands Board of Trustees, Division of Forestry, Fire, and State Lands actions
3286 reviewed by the executive director of the Department of Natural Resources, Board of Oil, Gas,
3287 and Mining, and the state engineer;

3288 (b) appeals from the district court review of:

3289 (i) adjudicative proceedings of agencies of political subdivisions of the state or other
3290 local agencies; and

3291 (ii) a challenge to agency action under Section 63G-3-602;

3292 (c) appeals from the juvenile courts;

3293 (d) interlocutory appeals from any court of record in criminal cases, except those
3294 involving a charge of a first degree or capital felony;

3295 (e) appeals from a court of record in criminal cases, except those involving a
3296 conviction or charge of a first degree felony or capital felony;

3297 (f) appeals from orders on petitions for extraordinary writs sought by persons who are
3298 incarcerated or serving any other criminal sentence, except petitions constituting a challenge to
3299 a conviction of or the sentence for a first degree or capital felony;

3300 (g) appeals from the orders on petitions for extraordinary writs challenging the
3301 decisions of the Board of Pardons and Parole except in cases involving a first degree or capital
3302 felony;

3303 (h) appeals from district court involving domestic relations cases, including, but not
3304 limited to, divorce, annulment, property division, child custody, support, parent-time,
3305 visitation, adoption, and paternity;

3306 (i) appeals from the Utah Military Court; and

3307 (j) cases transferred to the Court of Appeals from the Supreme Court.

3308 (3) The Court of Appeals upon its own motion only and by the vote of four judges of
3309 the court may certify to the Supreme Court for original appellate review and determination any
3310 matter over which the Court of Appeals has original appellate jurisdiction.

3311 (4) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4,
3312 Administrative Procedures Act, in its review of agency adjudicative proceedings.

3313 Section 43. Section **79-1-101** is enacted to read:

TITLE 79. NATURAL RESOURCES**CHAPTER 1. GENERAL PROVISIONS****79-1-101. Titles.**

(1) This title is known as "Natural Resources."

(2) This chapter is known as "General Provisions."

Section 44. Section **79-1-102** is enacted to read:

79-1-102. Definitions.

As used in this title:

(1) "Department" means the Department of Natural Resources created in Section 79-2-201.

(2) "Executive director" means the executive director of the department who is appointed under Section 79-2-202.

Section 45. Section **79-2-101** is enacted to read:

CHAPTER 2. DEPARTMENT OF NATURAL RESOURCES**Part 1. General Provisions****79-2-101. Title.**

This chapter is known as the "Department of Natural Resources."

Section 46. Section **79-2-102** is enacted to read:

79-2-102. Definitions.

As used in this chapter:

(1) "Conservation officer" is as defined in Section 23-13-2.

(2) "Species protection" means an action to protect a plant or animal species identified as:

(a) sensitive by the state; or

(b) threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C.

Sec. 1531 et seq.

(3) "Volunteer" means a person who donates a service to the department or a division of the department without pay or other compensation.

Section 47. Section **79-2-201**, which is renumbered from Section 63-34-3 is renumbered and amended to read:

Part 2. Department Creation and Administration

~~[63-34-3].~~ 79-2-201. Department of Natural Resources created.

(1) There is created ~~[within state government]~~ the Department of Natural Resources.

(2) The ~~[Department of Natural Resources]~~ department comprises the following

~~[boards, councils, and divisions]:~~

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Forestry, Fire, and State Lands Advisory Council, created in Section 65A-1-2;

(c) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(d) Board of Parks and Recreation, created in Section 79-4-301;

(e) Wildlife Board, created in Section 23-14-2;

~~[(f) Riverway Enhancement Advisory Council;]~~

~~[(g)]~~ (f) Board of the Utah Geological Survey, created in Section 79-3-301;

~~[(h)]~~ (g) Water Development Coordinating Council, created in Section 73-10c-3;

~~[(i)]~~ (h) Division of Water Rights, created in Section 73-2-1.1;

~~[(j)]~~ (i) Division of Water Resources, created in Section 73-10-18;

~~[(k)]~~ (j) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

~~[(l)]~~ (k) Division of Oil, Gas, and Mining, created in Section 40-6-15;

~~[(m)]~~ (l) Division of Parks and Recreation, created in Section 79-4-201;

~~[(n)]~~ (m) Division of Wildlife Resources~~[-and]~~, created in Section 23-14-1;

~~[(o)]~~ (n) Utah Geological Survey~~[-]~~, created in Section 79-3-201;

(o) Heritage Trees Advisory Committee, created in Section 65A-8-306;

(p) Recreational Trails Advisory Council, authorized by Section 79-5-201;

(q) Boating Advisory Council, authorized by Section 73-18-3.5;

(r) Wildlife Board Nominating Committee, created in Section 23-14-2.5; and

(s) Wildlife Regional Advisory Councils, created in Section 23-14-2.6.

Section 48. Section **79-2-202 (Contingently Superseded)**, which is renumbered from Section 63-34-5 (Contingently Superseded) is renumbered and amended to read:

~~[63-34-5 (Contingently Superseded)].~~ 79-2-202 (Contingently Superseded). Executive director-- Appointment -- Removal -- Compensation -- Responsibilities.

(1) (a) The chief administrative officer of the ~~[Department of Natural Resources shall be]~~ department is an executive director appointed by the governor with the consent of the

3376 Senate.

3377 (b) The executive director may be removed at the will of the governor.

3378 (c) The executive director shall receive a salary established by the governor within the
3379 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

3380 (2) The executive director shall:

3381 (a) administer and supervise the ~~[Department of Natural Resources]~~ department and
3382 provide for coordination and cooperation among the boards, divisions, ~~[and offices]~~ councils,
3383 and committees of the department;

3384 (b) approve the budget of each board and division;

3385 (c) participate in regulatory proceedings as appropriate ~~[to]~~ for the functions and duties
3386 of the department;

3387 (d) report at the end of each fiscal year to the governor on department, board, and
3388 division activities~~[, and activities of the boards and divisions];~~ and

3389 (e) perform other duties as provided ~~[by the Legislature]~~ by statute.

3390 ~~[(3)(a) Unless otherwise provided by statute, the department may adopt a schedule of~~
3391 ~~fees assessed for services provided by the department.]~~

3392 ~~[(b) A fee described in Subsection (3)(a) shall:]~~

3393 ~~[(i) be reasonable and fair; and]~~

3394 ~~[(ii) reflect the cost of services provided.]~~

3395 ~~[(c) Each fee established under this Subsection (3) shall be submitted to and approved~~
3396 ~~by the Legislature as part of the department's annual appropriations request.]~~

3397 ~~[(d) The department may not charge or collect any fee established under this~~
3398 ~~Subsection (3) without approval of the Legislature.]~~

3399 (3) By following the procedures and requirements of Title 63J, Chapter 5, Federal
3400 Funds Procedures, the executive director, may accept an executive or legislative provision that
3401 is enacted by the federal government, whereby the state may participate in the distribution,
3402 disbursement, or administration of a fund or service from the federal government for purposes
3403 consistent with the powers and duties of the department.

3404 (4) (a) The executive director, in cooperation with the governmental entities having
3405 policymaking authority regarding natural resources, may engage in studies and comprehensive
3406 planning for the development and conservation of the state's natural resources.

3407 (b) The executive director shall submit any plan to the governor for review and
3408 approval.

3409 Section 49. Section **79-2-202 (Contingently Effective)**, which is renumbered from
3410 Section 63-34-5 (Contingently Effective) is renumbered and amended to read:

3411 **[63-34-5 (Contingently Effective)]. 79-2-202 (Contingently**
3412 **Effective). Executive director -- Appointment -- Removal -- Compensation --**
3413 **Responsibilities.**

3414 (1) (a) The chief administrative officer of the [~~Department of Natural Resources shall~~
3415 ~~be~~] department is an executive director appointed by the governor with the consent of the
3416 Senate.

3417 (b) The executive director may be removed at the will of the governor.

3418 (c) The executive director shall receive a salary established by the governor within the
3419 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

3420 (2) The executive director shall:

3421 (a) administer and supervise the [~~Department of Natural Resources~~] department and
3422 provide for coordination and cooperation among the boards, divisions, [~~and offices~~] councils,
3423 and committees of the department;

3424 (b) approve the budget of each board and division;

3425 (c) participate in regulatory proceedings as appropriate [~~to~~] for the functions and duties
3426 of the department;

3427 (d) ensure that funds appropriated to the [~~Department of Natural Resources~~]
3428 department from the Wetlands Protection Account created by Section [~~63-34-3.2~~] 79-2-305 are
3429 expended in accordance with [~~Subsection 63-34-3.2(3)~~] that section;

3430 (e) ensure that funds appropriated to the [~~Department of Natural Resources~~]
3431 department from the Recreational Trails and Streams Enhancement and Protection Account
3432 created by Section [~~63-34-3.3~~] 79-2-306 are expended in accordance with [~~Subsection~~
3433 ~~63-34-3.3(3)~~] that section;

3434 (f) report at the end of each fiscal year to the governor on department, board, and
3435 division activities[, ~~and activities of the boards and divisions~~]; and

3436 (g) perform other duties as provided [~~by the Legislature~~] by statute.

3437 [~~(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of~~

3438 ~~fees assessed for services provided by the department.]~~
3439 ~~[(b) A fee described in Subsection (3)(a) shall:]~~
3440 ~~[(i) be reasonable and fair; and]~~
3441 ~~[(ii) reflect the cost of services provided.]~~
3442 ~~[(c) Each fee established under this Subsection (3) shall be submitted to and approved~~
3443 ~~by the Legislature as part of the department's annual appropriations request.]~~
3444 ~~[(d) The department may not charge or collect any fee established under this~~
3445 ~~Subsection (3) without approval of the Legislature.]~~
3446 (3) By following the procedures and requirements of Title 63J, Chapter 5, Federal
3447 Funds Procedures, the executive director may accept an executive or legislative provision that
3448 is enacted by the federal government, whereby the state may participate in the distribution,
3449 disbursement, or administration of a fund or service from the federal government for purposes
3450 consistent with the powers and duties of the department.
3451 (4) (a) The executive director, in cooperation with the governmental entities having
3452 policymaking authority regarding natural resources, may engage in studies and comprehensive
3453 planning for the development and conservation of the state's natural resources.
3454 (b) The executive director shall submit any plan to the governor for review and
3455 approval.
3456 Section 50. Section **79-2-203**, which is renumbered from Section 63-34-4 is
3457 renumbered and amended to read:
3458 **[63-34-4]. 79-2-203. Policy board members.**
3459 ~~[(1) The governor, with the consent of the Senate, shall appoint the members of the~~
3460 ~~division policy boards created in Section 63-34-3.]~~
3461 ~~[(2) (a) Except as required by Subsection (2)(b), as terms of current board members~~
3462 ~~expire, the governor shall appoint each new member or reappointed member to a four-year~~
3463 ~~term.]~~
3464 ~~[(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the~~
3465 ~~time of appointment or reappointment, adjust the length of terms to ensure that the terms of~~
3466 ~~board members are staggered so that approximately half of the board is appointed every two~~
3467 ~~years.]~~
3468 ~~[(c) The board members shall be appointed for no more than two consecutive terms~~

3469 ~~unless the governor considers an additional appointment necessary due to exceptional~~
3470 ~~circumstances;]~~

3471 ~~[(3)]~~ (1) Members of a policy board within the department shall be appointed
3472 consistent with the following criteria:

- 3473 (a) geographical distribution;
3474 (b) expertise or personal experience with subject matter;
3475 (c) diversity of opinion and political preference; and
3476 (d) gender, cultural, and ethnic representation.

3477 ~~[(4)(a)(i) Members who are not government employees shall receive no compensation~~
3478 ~~or benefits for their services, but may receive per diem and expenses incurred in the~~
3479 ~~performance of the member's official duties at the rates established by the Division of Finance~~
3480 ~~under Sections 63A-3-106 and 63A-3-107.]~~

3481 ~~[(ii) Members may decline to receive per diem and expenses for their service.]~~

3482 ~~[(b)(i) State government officer and employee members who do not receive salary, per~~
3483 ~~diem, or expenses from their agency for their service may receive per diem and expenses~~
3484 ~~incurred in the performance of their official duties from the board at the rates established by the~~
3485 ~~Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

3486 ~~[(ii) State government officer and employee members may decline to receive per diem~~
3487 ~~and expenses for their service.]~~

3488 ~~[(5)(a) Any]~~ (2) The governor may remove a member ~~[may be removed]~~ at any time
3489 ~~[by the governor]~~ for official misconduct, habitual or willful neglect of duty, or for other good
3490 and sufficient cause.

3491 ~~[(b) When a vacancy occurs in the membership for any reason, the replacement shall be~~
3492 ~~appointed for the unexpired term;]~~

3493 ~~[(6)]~~ (3) No member of the Legislature may serve as a member of a division policy
3494 board.

3495 ~~[(7) A]~~ (4) (a) In addition to the disclosures required by Section 67-16-7, a board
3496 member shall disclose any conflict of interest to the board ~~[and if]~~.

3497 (b) Notwithstanding Section 67-16-9, a board member with a substantial conflict may
3498 serve on the board if the member refrains from voting on a board action when the conflict
3499 involves;

3500 (i) a direct financial interest in ~~[either]~~ the subject under consideration; or
 3501 (ii) an entity or asset that could be substantially affected by the outcome of board
 3502 action~~[-, the member shall refrain from voting on the matter].~~

3503 Section 51. Section **79-2-204**, which is renumbered from Section 63-34-6 is
 3504 renumbered and amended to read:

3505 **~~[63-34-6]. 79-2-204. Division directors -- Appointment -- Removal --~~**
 3506 **Jurisdiction of executive director.**

3507 (1) (a) The chief administrative officer of ~~[each]~~ a division within the ~~[Department of~~
 3508 ~~Natural Resources shall be]~~ department is a director appointed by the executive director ~~[of the~~
 3509 ~~Department of Natural Resources]~~ with the concurrence of the board having policy authority
 3510 for the division.

3511 (b) The director of ~~[each]~~ a division may be removed from office by the executive
 3512 director ~~[of the Department of Natural Resources].~~

3513 (c) The appointment and term of office of the state engineer, notwithstanding anything
 3514 to the contrary contained in this section, shall be in accordance with Section 73-2-1.

3515 (2) (a) The executive director ~~[of the Department of Natural Resources shall have]~~ has
 3516 administrative jurisdiction over ~~[each of the]~~ a division ~~[directors]~~ director for the purpose of
 3517 implementing department policy as established by the ~~[division boards]~~ division's board.

3518 (b) The executive director ~~[of the Department of Natural Resources]~~ may:

3519 (i) consolidate personnel and service functions in the ~~[respective]~~ divisions ~~[under his~~
 3520 ~~administrative jurisdiction]~~ to effectuate efficiency and economy in the operations of the
 3521 department~~[-, and];~~

3522 (ii) may establish a departmental services division to perform service functions~~[-]; and~~

3523 ~~[(c) This jurisdiction includes the authority of the executive director to]~~

3524 (iii) employ law enforcement officers and special function officers within the
 3525 ~~[Department of Natural Resources. These law enforcement officers shall]~~ department that have
 3526 all of the powers of a conservation ~~[officers provided in Title 23, Wildlife Resources Code of~~
 3527 ~~Utah,]~~ officer and law enforcement ~~[officers]~~ officer, with the exception of the power to serve
 3528 civil process.

3529 ~~[(3)(a) The executive director of the Department of Natural Resources, in cooperation~~
 3530 ~~with the governmental entities having policymaking authority regarding natural resources, may~~

engage in studies and comprehensive planning for the development and conservation of the state's natural resources.]

~~[(b) The executive director shall submit any plans to the governor for review and approval.]~~

Section 52. Section **79-2-205**, which is renumbered from Section 63-34-3.1 is renumbered and amended to read:

[63-34-3.1]. 79-2-205. Procedures -- Adjudicative proceedings.

~~[The Department of Natural Resources and the divisions, boards, and councils]~~ Except as provided by Sections 40-10-13, 63G-4-102, and 73-2-25, a division, board, council, or committee referred to in Section [63-34-3] 79-2-201 shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in [their] an adjudicative [proceedings] proceeding.

Section 53. Section **79-2-301**, which is renumbered from Section 63-34-8 is renumbered and amended to read:

Part 3. Finances

[63-34-8]. 79-2-301. Budget.

(1) The department [of natural resources] shall prepare and submit to the governor, to be included in the budget to be submitted to the Legislature, a budget of the department's requirements for expenses in carrying out the provisions of law during the fiscal year next following the convening of the Legislature.

(2) The director of each division shall prepare, with the advice of the division's policy board, a budget of expenses for the next fiscal year, which shall be submitted to the executive director [of the department of natural resources] to aid in the preparation of the departmental budget.

Section 54. Section **79-2-302** is enacted to read:

79-2-302. Fees.

(1) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department.

(2) A fee described in Subsection (1) shall:

(a) be reasonable and fair; and

(b) reflect the cost of services provided.

(3) The department shall submit a fee established under this section to the Legislature as part of the department's annual appropriations request.

(4) The department may not charge or collect a fee established under this section without approval of the Legislature.

Section 55. Section **79-2-303**, which is renumbered from Section 63-34-14 is renumbered and amended to read:

[63-34-14]. 79-2-303. Species Protection Account.

~~[(1) As used in this section, "species protection" means an action to protect any plant or animal species identified as sensitive by the state or as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.]~~

~~[(2)]~~ (1) There is created within the General Fund a restricted account known as the Species Protection Account.

~~[(3)]~~ (2) The account shall consist of:

(a) revenue generated by the brine shrimp tax provided for in Title 59, Chapter 23, Brine Shrimp Royalty Act; and

(b) interest earned on monies in the account.

~~[(4)]~~ (3) Monies in the account may be appropriated by the Legislature ~~[for the following purposes]~~ to:

(a) ~~[to]~~ develop and implement species status assessments and species protection measures;

(b) ~~[to]~~ obtain biological opinions of proposed species protection measures;

(c) ~~[to]~~ conduct studies, investigations, and research into the effects of proposed species protection measures;

(d) ~~[to]~~ verify species protection proposals that are not based on valid biological data;

(e) ~~[for]~~ implement Great Salt Lake wetlands mitigation projects in connection with the western transportation corridor;

(f) ~~[to]~~ pay for the state's voluntary contributions to the Utah Reclamation Mitigation and Conservation Account under the Central Utah Project Completion Act, Pub. L. No. 102-575, Titles II-VI, 106 Stat. 4605-4655; and

(g) ~~[to]~~ pay for expenses of the State Tax Commission under Title 59, Chapter 23, Brine Shrimp Royalty Act.

3593 ~~[(5)]~~ (4) The purposes specified in Subsections ~~[(4)]~~ (3)(a) through ~~[(4)]~~ (3)(d) may be
3594 accomplished by the state or, in an appropriation act, the Legislature may authorize the
3595 ~~[Department of Natural Resources]~~ department to award grants to political subdivisions of the
3596 state to accomplish those purposes.

3597 ~~[(6)]~~ (5) Monies in the account may not be used to develop or implement a habitat
3598 conservation plan required under federal law unless the federal government pays for at least 1/3
3599 of the habitat conservation plan costs.

3600 Section 56. Section **79-2-304**, which is renumbered from Section 63-34-20 is
3601 renumbered and amended to read:

3602 ~~[63-34-20].~~ **79-2-304. Natural Resources Conservation Easement Account.**

3603 (1) There is created within the General Fund a restricted account known as the Natural
3604 Resources Conservation Easement Account.

3605 (2) The Natural Resources Conservation Easement Account consists of:

3606 (a) grants from private foundations;

3607 (b) grants from local governments, the state, or the federal government;

3608 (c) grants from the Quality Growth Commission created under Section 11-38-201;

3609 (d) donations from landowners for monitoring and enforcing compliance with
3610 conservation easements;

3611 (e) donations from any other person; and

3612 (f) interest on account monies.

3613 (3) Upon appropriation by the Legislature, the ~~[Department of Natural Resources]~~
3614 department shall use monies from the account to monitor and enforce compliance with
3615 conservation easements held by the department.

3616 (4) The department may not receive or expend donations from the account to acquire
3617 conservation easements.

3618 Section 57. Section **79-2-305 (Contingently Effective)**, which is renumbered from
3619 Section 63-34-3.2 (Contingently Effective) is renumbered and amended to read:

3620 ~~[63-34-3.2 (Contingently Effective)].~~ **79-2-305 (Contingently**
3621 **Effective). Wetlands Protection Account.**

3622 (1) There is created within the General Fund a restricted account known as the
3623 Wetlands Protection Account.

3624 (2) The account shall ~~[be funded by a \$10,000,000]~~ consist of:
 3625 (a) a payment resulting from a [2002 Settlement Agreement] settlement agreement
 3626 between the United States Department of the Interior through the Fish and Wildlife Service and
 3627 the state through the ~~[Department of Natural Resources]~~ department; and
 3628 (b) interest earned on the account.
 3629 (3) Funds in the Wetlands Protection Account may be used in accordance with the
 3630 public trust doctrine.

3631 Section 58. Section **79-2-306 (Contingently Effective)**, which is renumbered from
 3632 Section 63-34-3.3 (Contingently Effective) is renumbered and amended to read:

3633 ~~[63-34-3.3 (Contingently Effective)].~~ **79-2-306 (Contingently**
 3634 **Effective). Recreational Trails and Streams Enhancement and Protection Account.**

3635 (1) There is created within the General Fund a restricted account known as the
 3636 Recreational Trails and Streams Enhancement and Protection Account.
 3637 (2) The account shall ~~[be funded by a \$5,000,000]~~ consist of:
 3638 (a) a payment resulting from a [2002 Settlement Agreement] settlement agreement
 3639 between the United States Department of the Interior through the Fish and Wildlife Service and
 3640 the state through the ~~[Department of Natural Resources]~~ department; and
 3641 (b) interest earned on the account.
 3642 (3) Funds in the Recreational Trails and Streams Enhancement and Protection Account
 3643 may be used for the:
 3644 (a) development, improvement, and expansion of motorized and nonmotorized
 3645 recreational trails on public and private lands in the state; and
 3646 (b) preservation, reclamation, enhancement, or conservation of streams in the state.

3647 Section 59. Section **79-2-401**, which is renumbered from Section 63-34-9 is
 3648 renumbered and amended to read:

3649 **Part 4. Miscellaneous**

3650 ~~[63-34-9].~~ **79-2-401. Volunteer workers authorized.**

3651 (1) The ~~[Department of Natural Resources]~~ department and its divisions [are
 3652 authorized to] may use volunteer workers to supplement the salaried work force.
 3653 (2) A volunteer may be reimbursed for expenses actually and necessarily incurred,
 3654 including transportation, meals, lodging, uniforms, and other items as approved by the Division

of Finance, in the amounts and in accordance with the rules of the Division of Finance.

(3) A volunteer is considered an employee of the state for the purposes stated in Section 67-20-3.

(4) A volunteer may not donate a service to the department or a division unless the work program in which the volunteer would serve has first been approved, in writing, by the executive director and the executive director of the Department of Human Resource Management.

(5) Volunteer services shall comply with the rules adopted by the Department of Human Resource Management relating to the service that are not inconsistent with this section.

Section 60. Section **79-2-402**, which is renumbered from Section 63-34-15 is renumbered and amended to read:

[63-34-15]. 79-2-402. Outdoor recreation facilities -- Participation in federal programs.

~~[(1) The Legislature finds that the state of Utah and its political subdivisions should enjoy the benefits of federal assistance programs for the planning and development of the outdoor recreation resources of the state, including the acquisition of lands and waters and interests in land and water.]~~

~~[(2) To accomplish those purposes, the]~~

(1) The executive director [of the Department of Natural Resources] may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures, seek a federal [grants, loans,] grant or loan or participation in a federal [programs.] program to plan and develop an outdoor recreation resource, including:

(a) acquiring land or water; or

(b) acquiring an interest in land or water.

(2) (a) The executive director, in cooperation with the state planning coordinator and the state agency or political subdivision responsible for planning, acquisition, and development of outdoor recreation resources, may prepare, maintain, and update a comprehensive plan for the outdoor recreation resources of the state.

(b) The executive director shall submit the plan and any plan amendment to the governor for the governor's review and approval.

(3) By following the procedures and requirements of Title 63J, Chapter 5, Federal

3686 Funds Procedures, the executive director may:
3687 (a) apply to a United States officer or agency for participation in or the receipt of aid
3688 from a federal program regarding outdoor recreation;
3689 (b) in cooperation with other state agencies, enter into a contract or agreement with the
3690 United States or a United States agency;
3691 (c) keep financial and other records; and
3692 (d) furnish necessary reports to the United States official or agency.
3693 (4) In connection with obtaining the benefits of an outdoor recreation program, the
3694 executive director shall coordinate the department's activities with and represent the interests of
3695 all state agencies and political subdivisions having an interest in the planning, development,
3696 and maintenance of the outdoor recreation resource or facility.
3697 (5) The department may act as the agent of the state or a political subdivision to receive
3698 and to disburse federal moneys in accordance with the comprehensive plan.
3699 (6) The executive director may not make a commitment or enter into an agreement as
3700 authorized by this section and neither shall the governor approve a commitment or agreement
3701 unless sufficient funds are available to the department for meeting the state's share, if any, of
3702 project costs.
3703 (7) To the extent necessary to assure the proper operation and maintenance of areas and
3704 facilities acquired or developed pursuant to a program participated in by the state under this
3705 section, the areas and facilities shall be publicly maintained for outdoor recreation purposes.
3706 (8) The executive director may enter into and administer an agreement with the United
3707 States or a United States agency with the governor's approval for planning, acquisition, and
3708 development projects involving participating federal-aid funds on behalf of a political
3709 subdivision, if the political subdivision gives necessary assurance to the executive director that:
3710 (a) the political subdivision has available sufficient funds to meet the political
3711 subdivision's share, if any, of the cost of the project; and
3712 (b) the political subdivision will operate and maintain an acquired or developed area at
3713 the expense of the political subdivision for public outdoor recreation use.
3714 Section 61. Section **79-2-403**, which is renumbered from Section 63-34-21 is
3715 renumbered and amended to read:
3716 **[~~63-34-21~~]. 79-2-403. Rulemaking for sale of real property -- Licensed or**

3717 **certified appraisers -- Exceptions.**

3718 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if
3719 the department buys, sells, or exchanges real property, the department shall make rules to
3720 ensure that the value of the real property is congruent with the proposed price and other terms
3721 of the purchase, sale, or exchange.

3722 (2) The rules:

3723 (a) shall establish procedures for determining the value of the real property;

3724 (b) may provide that an appraisal, as defined under Section 61-2b-2, demonstrates the
3725 real property's value; and

3726 (c) may require that the appraisal be completed by a state-certified general appraiser, as
3727 defined under Section 61-2b-2.

3728 (3) Subsection (1) does not apply to the purchase, sale, or exchange of real property, or
3729 to an interest in real property:

3730 (a) that is under a contract or other written agreement prior to May 5, 2008; or

3731 (b) with a value of less than \$100,000, as estimated by the state agency.

3732 Section 62. Section **79-3-101** is enacted to read:

3733 **CHAPTER 3. UTAH GEOLOGICAL SURVEY**

3734 **Part 1. General Provisions**

3735 **79-3-101. Title.**

3736 This chapter is known as "Utah Geological Survey."

3737 Section 63. Section **79-3-102**, which is renumbered from Section 63-73-1 is
3738 renumbered and amended to read:

3739 **[63-73-1]. 79-3-102. Definitions.**

3740 As used in this chapter:

3741 (1) "Agency" means a department, division, office, bureau, board, commission, or
3742 other administrative unit of the state.

3743 (2) "Board" means the Board of the Utah Geological Survey.

3744 (3) "Collection" means a specimen and the associated records documenting the
3745 specimen and its recovery.

3746 (4) "Critical paleontological resources" means vertebrate fossils and other exceptional
3747 fossils that are designated state paleontological landmarks as provided for in Section

3748 ~~[63-73-16]~~ 79-3-505.

3749 (5) "Curation" means:

3750 (a) management and care of collections according to standard professional museum
3751 practice, which may include inventorying, accessioning, labeling, cataloging, identifying,
3752 evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing,
3753 conserving, exhibiting, exchanging, or otherwise disposing of original collections or
3754 reproductions~~[-]~~; and

3755 (b) providing access to and facilities for studying collections.

3756 (6) "Curation facility" is as defined ~~[as provided]~~ in Section 53B-17-603.

3757 ~~[(7)] "Department" means the Department of Natural Resources.]~~

3758 ~~[(8)]~~ (7) "Director" means the director of the ~~[Utah Geological Survey]~~ survey.

3759 ~~[(9)]~~ (8) "Excavate" means the recovery of critical paleontological resources.

3760 ~~[(10)]~~ (9) "Museum" means the Utah Museum of Natural History.

3761 ~~[(11)]~~ (10) "Paleontological resources" means remains of prehistoric life pertaining to
3762 the natural history of the state.

3763 ~~[(12)]~~ (11) "Repository" is defined as provided in Section 53B-17-603.

3764 ~~[(13)]~~ (12) "School and institutional land grants" means the transfer of properties
3765 pursuant to Sections 6 and 8 of the Utah Enabling Act and Utah Constitution Article XX.

3766 ~~[(14)]~~ (13) "School and institutional trust lands" are those properties defined in Section
3767 53C-1-103.

3768 ~~[(15)]~~ (14) "Site" means any paleontological deposit or other location that is the source
3769 of ~~[specimens]~~ a specimen.

3770 ~~[(16)]~~ (15) "Specimen" means remains of a critical paleontological nature found on or
3771 below the surface of the earth.

3772 ~~[(17)]~~ (16) "State Paleontological Register" means a register of paleontological sites
3773 and localities.

3774 ~~[(18)]~~ (17) "Survey" means the Utah Geological Survey.

3775 Section 64. Section **79-3-201**, which is renumbered from Section 63-73-5 is
3776 renumbered and amended to read:

3777 **Part 2. Utah Geological Survey**

3778 ~~[63-73-5].~~ **79-3-201. Establishment of survey within the department -- General**

3779 **supervision of the survey.**

3780 The survey is established within the department under:

3781 (1) the administration and general supervision of the executive director [~~of the~~
3782 ~~department~~]; and [~~under~~]

3783 (2) the policy direction of the board.

3784 Section 65. Section **79-3-202**, which is renumbered from Section 63-73-6 is
3785 renumbered and amended to read:

3786 ~~[63-73-6].~~ **79-3-202. Powers and duties of survey.**

3787 (1) The survey shall:

3788 (a) assist and advise state and local [~~governmental~~] agencies and state educational
3789 institutions on geologic, paleontologic, and mineralogic subjects;

3790 (b) collect and distribute reliable information regarding the mineral industry and
3791 mineral resources, topography, paleontology, and geology of the state;

3792 (c) survey the geology of the state, including mineral occurrences and the ores of
3793 metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface
3794 and ground water resources, with special reference to their economic contents, values, uses,
3795 kind, and availability in order to facilitate their economic use;

3796 (d) investigate the kind, amount, and availability of mineral substances contained in
3797 lands owned and controlled by the state, to contribute to the most effective and beneficial
3798 administration of these lands for the state;

3799 (e) determine and investigate areas of geologic and topographic hazards that could
3800 affect the safety of, or cause economic loss to, the citizens of the state;

3801 (f) assist local and state [~~government~~] agencies in their planning, zoning, and building
3802 regulation functions by publishing maps, delineating appropriately wide special earthquake risk
3803 areas, and, at the request of state agencies or other governmental agencies, review the siting of
3804 critical facilities;

3805 (g) cooperate with state agencies, political subdivisions of the state,
3806 quasi-governmental agencies, federal agencies, schools of higher education, and others in fields
3807 of mutual concern, which may include field investigations and preparation, publication, and
3808 distribution of reports and maps;

3809 (h) collect and preserve data pertaining to mineral resource exploration and

development programs and construction activities, such as claim maps, location of drill holes, location of surface and underground workings, geologic plans and sections, drill logs, and assay and sample maps, including the maintenance of a sample library of cores and cuttings;

(i) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of the board, should be undertaken by the survey to serve the needs of the state and to support the development of natural resources and utilization of lands within the state;

(j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the work accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits of the geological and mineral resources of this state and interpret their significance;

(k) collect, maintain, and preserve data and information in order to accomplish the purposes of this section and act as a repository for information concerning the geology of this state;

(l) stimulate research, study, and activities in the field of paleontology;

(m) mark, protect, and preserve critical paleontological sites;

(n) collect, preserve, and administer critical paleontological specimens until ~~they~~ the specimens are placed in a repository or curation facility;

(o) administer critical paleontological site excavation records;

(p) edit and publish critical paleontological records and reports; and

(q) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state programs regarding:

(i) renewable energy;

(ii) energy efficiency; and

(iii) energy conservation.

(2) (a) The survey may maintain as confidential, and not as a public record, information provided to the survey by any source.

(b) The board shall adopt rules in order to determine whether to accept ~~such~~ the information described in Subsection (2)(a) and to maintain the confidentiality of the accepted information.

(c) The survey shall maintain information received from any source at the level of confidentiality assigned to it by the source.

(3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection (1).

(4) (a) Subject to the authority granted to the department, the survey may enter into cooperative agreements with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit allocated or budgeted funds in connection with those agreements.

(b) The survey may undertake joint projects with private entities if:

(i) the action is approved by the board;

(ii) the projects are not inconsistent with the state's objectives; and

(iii) the results of the projects are available to the public.

Section 66. Section **79-3-203**, which is renumbered from Section 63-73-7 is renumbered and amended to read:

[63-73-7]. 79-3-203. Director of survey -- Designation as state geologist -- Qualifications -- Duties and authority.

(1) The director is:

(a) the executive and administrative head of the survey; and [is]

(b) designated the state geologist.

(2) The director's qualifications shall include:

(a) graduation from a recognized university; and

(b) demonstrated competency in:

(i) the science of geology; and [in]

(ii) administration.

(3) (a) The director administers the survey for the benefit of the public.

(b) A person may not call upon or require the director or his associates to enter upon any special survey for the benefit of that person.

(4) The director, subject to review by the board and approval by the executive director of the department, may initiate cooperative agreements with private companies or parties or state or federal agencies to carry out the provisions of this chapter.

Section 67. Section **79-3-204**, which is renumbered from Section 63-73-8 is

3872 renumbered and amended to read:

3873 ~~[63-73-8].~~ **79-3-204. Personnel of survey -- Employment -- Restrictions --**

3874 **Salaries and benefits.**

3875 (1) The director, after consultation with the board and approval by the executive
3876 director ~~[of the department]~~, shall select, employ, or contract for qualified individuals and
3877 services required to carry out the provisions of this chapter within the authorized programs and
3878 within the allocated and budgeted funds.

3879 (2) (a) Persons retained on a contract basis act in the capacity of independent
3880 contractors and are not subject to the Utah State Personnel Management Act.

3881 (b) Each contract written for ~~[these]~~ the services ~~[shall specify this fact]~~ described in
3882 Subsection (1) shall include the information in Subsection (2).

3883 (3) (a) An employee of the survey may not;

3884 (i) have an interest in lands within the state ~~[which]~~ that creates a conflict of interest
3885 harmful to the goals and objectives of the survey~~[- An employee may not]; or~~

3886 (ii) obtain financial gain by reason of information obtained through work as an
3887 employee of the survey.

3888 (b) The board shall resolve questions regarding potential conflicts and financial gain.

3889 (c) For permanent employees, ~~[this restriction is lifted at]~~ the restriction in Subsection
3890 (3)(a) is terminated at the end of a two-year period following termination of service or, with
3891 respect to information which is confidential and not a public record, for however long the
3892 information is classified as confidential and not a public record, whichever period of time is
3893 longer. ~~[Similar]~~

3894 (d) The time periods established in Subsection (3)(c), which can be modified only after
3895 publication of the data, apply to contractors or consultants employed on special problems.

3896 (4) (a) A survey employee may not engage in outside or private work which is or can
3897 be in conflict with the operations, goals, and objectives of the survey. ~~[Situations in dispute~~
3898 ~~that arise in this field are resolved by the board.]~~

3899 (b) The board shall resolve issues regarding outside or private work by a survey
3900 employee.

3901 (5) Survey personnel are paid in accordance with state salary schedules and are subject
3902 to state benefit and retirement programs. ~~[Survey employees under the University of Utah~~

3903 salary schedules and enrolled under the university's employee benefit and retirement programs
3904 have the option of remaining in the university's retirement system but are paid in accordance
3905 with state salary schedules.]

3906 Section 68. Section **79-3-205**, which is renumbered from Section 63-73-9 is
3907 renumbered and amended to read:

3908 **[63-73-9]. 79-3-205. Investigatory powers and immunities of survey personnel.**

3909 (1) Authorized survey personnel, after providing reasonable notification and
3910 identification, have the right to enter all lands subject to the police power of the state for the
3911 purpose of securing geologic, topographic, and mineral and water resource information or
3912 specimens and samples required by the survey in fulfillment of its objectives.

3913 (2) Survey personnel are immune from trespass while engaged on official business.

3914 Section 69. Section **79-3-301**, which is renumbered from Section 63-73-2 is
3915 renumbered and amended to read:

3916 **Part 3. Board of Utah Geological Survey**

3917 **[63-73-2]. 79-3-301. Board of Utah Geological Survey created.**

3918 (1) There is created within the [~~Department of Natural Resources~~] department the
3919 Board of the Utah Geological Survey.

3920 (2) The board is the policymaking body for the survey.

3921 Section 70. Section **79-3-302**, which is renumbered from Section 63-73-3 is
3922 renumbered and amended to read:

3923 **[63-73-3]. 79-3-302. Members of board -- Qualifications and appointment --**
3924 **Vacancies -- Organization -- Meetings -- Financial gain prohibited -- Expenses.**

3925 (1) The board consists of seven members appointed by the governor, with the consent
3926 of the Senate.

3927 (2) ~~[The]~~ In addition to the requirements of Section 79-2-203, the members shall have
3928 the following qualifications:

3929 (a) one member knowledgeable in the field of geology as applied to the practice of civil
3930 engineering;

3931 (b) four members knowledgeable and representative of various segments of the mineral
3932 industry throughout the state, such as hydrocarbons, solid fuels, metals, and industrial minerals;

3933 (c) one member knowledgeable of the economic or scientific interests of the mineral

3934 industry in the state; and

3935 (d) one member who is interested in the goals of the survey and from the public at
3936 large.

3937 (3) The director of the School and Institutional Trust Lands Administration is an ex
3938 officio member of the board but without any voting privileges.

3939 (4) (a) Except as required by Subsection (4)(b), members are appointed for terms of
3940 four years.

3941 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
3942 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
3943 board members are staggered so that approximately half of the board is appointed every two
3944 years.

3945 (c) No more than four members may be of the same political party.

3946 (d) When a vacancy occurs in the membership for any reason, the replacement shall be
3947 appointed for the unexpired term by the governor with the consent of the Senate.

3948 (5) The board shall select from its members a chair and such officers and committees
3949 as it considers necessary.

3950 (6) (a) The board shall hold meetings at least quarterly on such dates as may be set by
3951 its chair.

3952 (b) Special meetings may be held upon notice of the chair or by a majority of its
3953 members.

3954 (c) A majority of the members of the board present at a meeting constitutes a quorum
3955 for the transaction of business.

3956 (7) Members of the board may not obtain financial gain by reason of information
3957 obtained during the course of their official duties.

3958 (8) (a) (i) ~~[Members]~~ A member who ~~[are]~~ is not a government ~~[employees shall]~~
3959 employee may not receive ~~[no]~~ compensation or benefits for ~~[their services]~~ the member's
3960 service, but may receive per diem and expenses incurred in the performance of the member's
3961 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and
3962 63A-3-107.

3963 (ii) ~~[Members]~~ A member may decline to receive per diem and expenses for ~~[their]~~ the
3964 member's service.

(b) (i) ~~[State]~~ A state government officer and employee ~~[members]~~ member who ~~[do]~~ does not receive salary, per diem, or expenses from ~~[their]~~ the agency the member represents for ~~[their]~~ the member's service may receive per diem and expenses incurred in the performance of ~~[their]~~ the member's official duties ~~[from the board]~~ at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) ~~[State]~~ A state government officer and employee ~~[members]~~ member may decline to receive per diem and expenses for ~~[their]~~ the member's service.

Section 71. Section **79-3-303**, which is renumbered from Section 63-73-4 is renumbered and amended to read:

~~[63-73-4]. 79-3-303. Responsibilities of board.~~

The board has the following responsibilities:

- (1) establish and review policies, programs, and priorities;
- (2) review and recommend budgets;
- (3) assess the needs of the community with regard to development and use of geologic resources;
- (4) keep the director advised concerning survey policies; and
- (5) enact rules in accordance with Title 63G, Chapter 3, the Utah Administrative Rulemaking Act, that are necessary to carry out the purposes of this chapter.

Section 72. Section **79-3-401**, which is renumbered from Section 63-73-10 is renumbered and amended to read:

Part 4. Finances

~~[63-73-10]. 79-3-401. Disposition of survey income -- Sources of funds.~~

- (1) Income to the survey is deposited with the state treasurer and credited by the treasurer to the General Fund as a nonlapsing restrictive account for use by the survey.
- (2) In addition to those funds that are available to the survey under Subsection (1), the Legislature shall provide such funds by appropriation as are reasonably necessary to meet the requirements of the survey in the performance of its duties and obligations.

Section 73. Section **79-3-402**, which is renumbered from Section 63-73-21 is renumbered and amended to read:

~~[63-73-21]. 79-3-402. Utah Geological Survey Sample Library Fund.~~

- (1) There is created a restricted special revenue fund known as the "Utah Geological

3996 Survey Sample Library Fund."

3997 (2) The fund consists of monies from the following revenue sources:

3998 (a) donations or contributions from individuals, companies, organizations, or
3999 government entities; and

4000 (b) interest generated by the fund.

4001 (3) The director shall administer the fund.

4002 (4) (a) Donations and other contributions to the fund and unallocated interest as
4003 provided in Subsection (5)(d) shall constitute the fund's principal.

4004 (b) The principal may be expended only with the concurrence of the board.

4005 (5) (a) Interest generated by the fund may be expended to support the sample library as
4006 provided in Subsections (5)(b) ~~[through (d)]~~ and (c).

4007 ~~[(b) For the first two years of the fund's existence, interest generated by the fund shall
4008 accrue to the fund and may not be expended.]~~

4009 ~~[(c) After two years, an]~~

4010 (b) An amount of money equal to or less than the interest generated by the fund in the
4011 previous fiscal year may be expended annually in support of the sample library.

4012 ~~[(d)]~~ (c) Funds that are eligible to be spent, but remain unallocated at the end of any
4013 fiscal year, revert to the fund and become part of the fund's principle.

4014 Section 74. Section **79-3-501**, which is renumbered from Section 63-73-12 is
4015 renumbered and amended to read:

4016 **Part 5. Paleontology**

4017 **~~[63-73-12].~~ 79-3-501. Permit required to excavate critical paleontological**
4018 **resources on state lands -- Removal of specimen or site.**

4019 (1) (a) Before excavating for critical paleontological resources on lands owned or
4020 controlled by the state or its subdivisions, except as provided in Section ~~[63-73-13]~~ 79-3-502, a
4021 person must obtain a permit from the survey.

4022 (b) Application for a permit shall be made on a form furnished by the survey.

4023 (c) The survey shall make rules for the issuance of permits specifying or requiring:

4024 (i) the minimum permittee qualifications;

4025 (ii) the duration of the permit;

4026 (iii) proof of permission from the land owner that the permittee may enter the property

4027 for purposes specified in the permit;

4028 (iv) research designs that provide for the maximum recovery of scientific,

4029 paleontological, and educational information, in addition to the physical recovery of specimens

4030 and the reporting of paleontological information meeting current standards of scientific rigor;

4031 (v) the need, if any, to submit data obtained in the course of field investigations to the

4032 survey;

4033 (vi) proof of consultation with the designated museum representative regarding

4034 curation of collections;

4035 (vii) proof of consultation with other agencies that may manage other legal interests in

4036 the land; and

4037 (viii) other information the survey considers necessary.

4038 (2) All paleontological work shall be carried out under the supervision of the director,

4039 or assigned staff.

4040 (3) A person may not remove from the state, prior to placement in a repository or

4041 curation facility, a specimen, site, or portion of a specimen or site from lands owned or

4042 controlled by the state or its subdivisions, except as provided in Section ~~[63-73-13]~~ 79-3-502,

4043 without permission from the survey, and without prior consultation with the landowner or other

4044 agencies managing other interests in the land.

4045 Section 75. Section **79-3-502**, which is renumbered from Section 63-73-13 is

4046 renumbered and amended to read:

4047 **~~[63-73-13]. 79-3-502. Permit required to excavate critical paleontological~~**

4048 **resources on school and institutional trust lands -- Removal of specimen or site.**

4049 (1) (a) Before excavating for critical paleontological resources on school or

4050 institutional trust lands, a person must obtain a permit from the School and Institutional Trust

4051 Lands Administration.

4052 (b) The School and Institutional Trust Lands Administration may, by rule, delegate the

4053 authority to issue excavation permits for critical paleontological resources to the ~~[Utah~~

4054 ~~Geological Survey]~~ survey.

4055 (c) Application for a permit shall be made on a form furnished by the School and

4056 Institutional Trust Lands Administration.

4057 (d) Prior to issuing a permit, the school and institutional trust lands administration shall

consult with the survey director, or assigned staff, pursuant to Section ~~[63-73-19]~~ 79-3-508.

(e) The School and Institutional Trust Lands Administration shall enact rules for the issuance of permits specifying or requiring:

(i) the minimum permittee qualifications;

(ii) the duration of the permit;

(iii) the need, if any, to submit data obtained in the course of field investigations to the administration;

(iv) proof of consultation with the designated museum representative regarding curation of collections; and

(v) other information the School and Institutional Trust Lands Administration considers necessary.

(2) A person may not remove from the state, prior to placement in a repository or curation facility, a specimen, site, or portion of a specimen or site from school and institutional trust lands without permission from the School and Institutional Trust Lands Administration, granted after consultation with the ~~[Utah Geological Survey]~~ survey.

Section 76. Section **79-3-503**, which is renumbered from Section 63-73-14 is renumbered and amended to read:

~~[63-73-14].~~ **79-3-503. Ownership of collections and resources.**

(1) Collections recovered from lands owned or controlled by the state or its subdivisions, except as provided in Subsection (2), shall be owned by the state.

(2) Collections recovered from school and institutional trust lands shall be owned by the respective trust.

(3) Paleontological resources, other than critical paleontological resources, recovered from school and institutional trust lands, shall be owned by the respective trust and shall be managed pursuant to statutory authority of the School and Institutional Trust Lands Administration.

(4) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated pursuant to Section 53B-17-603.

(5) Specimens found on lands owned or controlled by the state or its subdivisions may not be sold.

Section 77. Section **79-3-504**, which is renumbered from Section 63-73-15 is

4089 renumbered and amended to read:

4090 **[~~63-73-15~~]. 79-3-504. Revocation or suspension of permits -- Criminal penalties.**

4091 (1) A permitting agency under Section [~~63-73-12 or 63-73-13~~] 79-3-501 or 79-3-502
4092 may revoke or suspend a permit if the permittee fails to conduct the excavation pursuant to the
4093 law, the rules enacted by the permitting agency, or permit provisions.

4094 (2) (a) A person violating any provision of Section [~~63-73-12 or 63-73-13~~] 79-3-501 or
4095 79-3-502 is guilty of a class B misdemeanor.

4096 (b) A person convicted of violating any provision of Section [~~63-73-12 or 63-73-13~~]
4097 79-3-501 or 79-3-502, or the rules promulgated by the [~~Utah Geological Survey~~] survey or the
4098 School and Institutional Trust Lands Administration under those sections, shall forfeit to the
4099 state or the respective trust all paleontological resources discovered by or through the person's
4100 efforts, in addition to any penalties imposed.

4101 Section 78. Section **79-3-505**, which is renumbered from Section 63-73-16 is
4102 renumbered and amended to read:

4103 **[~~63-73-16~~]. 79-3-505. Paleontological landmarks.**

4104 (1) (a) Sites of significance or sites with exceptional fossils may be recommended to
4105 and approved by the board as state paleontological landmarks.

4106 (b) No privately owned site or site on school or institutional trust lands may be so
4107 designated without the written consent of the owner or the trust.

4108 (2) A person may not excavate on a privately owned designated landmark without a
4109 permit from the survey.

4110 (3) Before an alteration is commenced on a designated landmark, three months notice
4111 of intent to alter the site shall be given the survey.

4112 Section 79. Section **79-3-506**, which is renumbered from Section 63-73-17 is
4113 renumbered and amended to read:

4114 **[~~63-73-17~~]. 79-3-506. Report of discovery on state or private lands.**

4115 (1) A person who discovers any paleontological resources on privately owned lands or
4116 on lands owned or controlled by the state or its subdivisions shall promptly report the discovery
4117 to the survey.

4118 (2) Field investigations shall be discouraged except in accordance with this chapter.

4119 (3) Nothing in this section may be construed to authorize a person to excavate for

4120 paleontological resources.

4121 Section 80. Section **79-3-507**, which is renumbered from Section 63-73-18 is
4122 renumbered and amended to read:

4123 **~~[63-73-18].~~ 79-3-507. State paleontological register -- Survey duties.**

4124 (1) The survey shall establish a state paleontological register for the orderly
4125 identification and recognition of the state's paleontological resources.

4126 (2) The board shall notify owners of sites and localities before placing those sites or
4127 localities on the State Paleontological Register.

4128 Section 81. Section **79-3-508**, which is renumbered from Section 63-73-19 is
4129 renumbered and amended to read:

4130 **~~[63-73-19].~~ 79-3-508. Agency responsibilities -- Allowing director reasonable**
4131 **opportunity to comment.**

4132 (1) Before expending state funds or approving an undertaking, each state agency shall:

4133 (a) take into account the effect of the undertaking on a specimen that is included in or
4134 eligible for inclusion in the State Paleontological Register; and

4135 (b) allow the director or assigned staff a reasonable opportunity to comment regarding
4136 the undertaking or expenditure.

4137 (2) The director or assigned staff shall advise on ways to maximize the amount of
4138 scientific, paleontological, and educational information recovered, in addition to the physical
4139 recovery of specimens and the reporting of paleontological information, at current standards of
4140 scientific rigor.

4141 Section 82. Section **79-3-509**, which is renumbered from Section 63-73-20 is
4142 renumbered and amended to read:

4143 **~~[63-73-20].~~ 79-3-509. Curriculum and materials for the training of volunteers**
4144 **who assist paleontologists.**

4145 (1) The survey shall develop a curriculum and materials for the training of volunteers
4146 who assist paleontologists in the field and laboratory.

4147 (2) ~~[A qualified employee of the survey shall be appointed by the survey]~~ The director
4148 shall appoint a qualified survey employee to develop the curriculum and materials under this
4149 section.

4150 (3) The survey may request input and assistance from any interested organization in

4151 developing the curriculum and materials.

4152 (4) The survey may collect fees to cover the costs of the materials and updating of the
4153 curriculum.

4154 Section 83. Section **79-3-510**, which is renumbered from Section 63-73-11 is
4155 renumbered and amended to read:

4156 **[63-73-11]. 79-3-510. Protection of school and institutional trust land interests**
4157 **relating to paleontological resources.**

4158 ~~[(1) The Legislature declares that the general public and beneficiaries of the school and~~
4159 ~~institutional trust lands have an interest in the preservation and protection of the state's~~
4160 ~~paleontological resources and a right to the knowledge derived and gained from the scientific~~
4161 ~~study of those resources.]~~

4162 ~~[(2) The Legislature finds that:]~~

4163 ~~[(a)]~~ (1) The School and Institutional Trust Lands Administration shall develop
4164 policies and procedures for the excavation, preservation, placement in a repository, curation,
4165 and exhibition of critical paleontological resources from school and institutional trust lands
4166 that:

4167 (a) are consistent with the provisions of the school and institutional land grants~~[-if~~
4168 ~~these policies and procedures]; and~~

4169 (b) insure that primary consideration is given, on a site or project specific basis, ~~[to the~~
4170 ~~purpose of]~~ for the support [for] of the beneficiaries of the school and institutional land
4171 grants[;].

4172 ~~[(b) the preservation, placement in repository, curation, and exhibition of specimens~~
4173 ~~found on school or institutional trust lands for scientific and educational purposes are~~
4174 ~~consistent with the provisions of the school and institutional land grants;]~~

4175 ~~[(c) the preservation and development of]~~

4176 (2) Consistent with the provisions of the school and institutional land grants, the
4177 School and Institutional Trust Lands Administration may:

4178 (a) preserve and develop sites found on school and institutional trust lands for
4179 scientific or educational purposes~~[-or]; and~~

4180 (b) provide for the disposition of sites found on school and institutional trust lands,
4181 after the appropriate level of data recovery, for preservation, development, or economic

purposes~~[- are consistent with the provisions of the school and institutional land grants; and].~~
~~[(d) the excavation, curation, study, and exhibition of the state's paleontological~~
~~resources should be undertaken in a coordinated, professional, and organized manner for the~~
~~general welfare of both the public and the beneficiaries.]~~

Section 84. Section **79-4-101** is enacted to read:

CHAPTER 4. PARKS AND RECREATION

Part 1. General Provision

79-4-101. Title.

This chapter is known as "Parks and Recreation."

Section 85. Section **79-4-102** is enacted to read:

79-4-102. Definitions.

(1) "Board" means the Board of Parks and Recreation.

(2) "Division" means Division of Parks and Recreation.

Section 86. Section **79-4-201**, which is renumbered from Section 63-11-17.1 is renumbered and amended to read:

Part 2. Division Creation and Administration

~~[63-11-17.1].~~ **79-4-201. Division of Parks and Recreation -- Creation --**
Powers and authority.

(1) There is created within the department the Division of Parks and Recreation[-
~~which shall be within the Department of Natural Resources under].~~

(2) The division is under:

(a) the administration and general supervision of the executive director [of natural
~~resources and under]; and~~

(b) the policy direction of the [Board of Parks and Recreation. The Division of Parks
~~and Recreation shall be] board.~~

(3) The division is the parks and recreation authority for the state [of Utah, shall
~~assume all of the functions, powers, duties, rights and responsibilities of the Utah State Park~~
~~and Recreation Commission except those which are delegated to the Board of Parks and~~
~~Recreation by this act, and is vested with such other functions, powers, duties, rights and~~
~~responsibilities as provided in this act and other law].~~

Section 87. Section **79-4-202**, which is renumbered from Section 63-11-18 is

4213 renumbered and amended to read:

4214 **[63-11-18]. 79-4-202. Director -- Qualifications -- Duties.**

4215 (1) The director ~~[shall be]~~ is the executive and administrative head of the ~~[Division of~~
4216 ~~Parks and Recreation and shall have demonstrated]~~ division.

4217 (2) The director shall demonstrate:

4218 (a) executive ability; and

4219 (b) actual experience and training in the conduct of park and recreational systems

4220 involving both physical development and program.

4221 ~~[It shall be the duty of such director to]~~

4222 (3) The director shall:

4223 (a) enforce the policies and rules ~~[and regulations]~~ of the board; and ~~[to]~~

4224 (b) perform ~~[such other]~~ the duties ~~[as are]~~ necessary ~~[for the proper care and~~
4225 ~~maintenance of]~~ to:

4226 (i) properly care for and maintain any property under the jurisdiction of the division;

4227 and ~~[for the purpose of carrying out the provisions of this act.]~~

4228 (ii) carry out this chapter.

4229 (4) The director shall ~~[have the responsibility for: acquisition, planning, protection,~~

4230 ~~development, operation, use, and maintenance of]~~ acquire, plan, protect, develop, operate, use,

4231 and maintain park area and facilities in ~~[such manner as may be established by]~~ accordance

4232 with the policies and rules ~~[and regulations]~~ of the board.

4233 Section 88. Section **79-4-203**, which is renumbered from Section 63-11-17 is

4234 renumbered and amended to read:

4235 **[63-11-17]. 79-4-203. Powers and duties of division.**

4236 ~~[(1)(a) The board may make rules:]~~

4237 ~~[(i) governing the use of the state park system;]~~

4238 ~~[(ii) to protect state parks and their natural and cultural resources from misuse or~~

4239 ~~damage, including watersheds, plants, wildlife, and park amenities; and]~~

4240 ~~[(iii) to provide for public safety and preserve the peace within state parks.]~~

4241 ~~[(b) To accomplish the purposes stated in Subsection (1)(a), the board may enact rules~~

4242 ~~that:]~~

4243 ~~[(i) close or partially close state parks; or]~~

4244 ~~[(ii) establish use or access restrictions within state parks.]~~

4245 ~~[(c) Rules made under Subsection (1) may not have the effect of preventing the transfer~~
4246 ~~of livestock along a livestock highway established in accordance with Section 72-3-112.]~~

4247 (1) As used in this section, "real property" includes land under water, upland, and all
4248 other property commonly or legally defined as real property.

4249 (2) The Division of Wildlife Resources shall retain the power and jurisdiction
4250 conferred upon it by law within state parks and on property controlled by the Division of Parks
4251 and Recreation with reference to fish and game.

4252 (3) The ~~[Division of Parks and Recreation]~~ division shall permit multiple use of state
4253 parks and property controlled by it for purposes such as grazing, fishing ~~[and]~~, hunting, mining,
4254 and the development and utilization of water and other natural resources.

4255 (4) (a) The division may acquire real and personal property in the name of the state by
4256 all legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange,
4257 or otherwise, subject to the approval of the executive director and the governor.

4258 ~~[(b) As used in this section, "real property" includes land under water, upland, and all~~
4259 ~~other property commonly or legally defined as real property.]~~

4260 ~~[(c)]~~ (b) In acquiring any real or personal property, the credit of the state may not be
4261 pledged without the consent of the Legislature.

4262 (5) (a) Before acquiring any real property, the division shall notify the county
4263 legislative body of the county where the property is situated of its intention to acquire the
4264 property.

4265 (b) If the county legislative body requests a hearing within ten days of receipt of the
4266 notice, the ~~[board]~~ division shall hold a public hearing in the county concerning the matter.

4267 (6) Acceptance of gifts or devises of land or other property ~~[shall be]~~ is at the
4268 discretion of the division, subject to the approval of the executive director ~~[of the Department~~
4269 ~~of Natural Resources]~~ and the governor.

4270 (7) ~~[Acquisition of]~~ The division shall acquire property by eminent domain ~~[shall be]~~
4271 in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

4272 (8) (a) The ~~[Division of Parks and Recreation]~~ division may make charges for special
4273 services and use of facilities, the income from which ~~[shall be]~~ is available for park and
4274 recreation purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

~~[(c) The board shall adopt appropriate rules governing the collection of charges under this Subsection (8).]~~

(9) (a) The division may lease or rent concessions of all lawful kinds and nature in state parks and property to persons, partnerships, and corporations for a valuable consideration upon the recommendation of the board.

(b) The division shall comply with Title 63G, Chapter 6, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section ~~[63-11-67]~~ 79-4-404.

Section 89. Section **79-4-204**, which is renumbered from Section 63-11-19 is renumbered and amended to read:

~~[63-11-19].~~ **79-4-204. Division authorized to enter into contracts and agreements.**

(1) The division, with the approval of the executive director ~~[of natural resources]~~ and the governor, ~~[is authorized to]~~ may enter into contracts and agreements with the ~~[government of the]~~ United States~~[-, or any duly authorized representative or]~~, a United States agency, ~~[thereof, or with]~~ any other department or agency of the state ~~[of Utah and]~~, semipublic organizations, and with private individuals ~~[for the purposes of causing]~~ to:

(a) improve and maintain state parks and recreational grounds and the areas administered by the division ~~[to be improved and maintained and for any other lawful purpose and for those purposes it may contract to]~~;

(b) secure labor, quarters, materials, services, or facilities ~~[thereof]~~ according to procedures established by the ~~[Department]~~ Division of Finance.

(2) All departments, agencies, officers, and employees of the state ~~[are authorized and directed to]~~ shall give to the division ~~[such]~~ the consultation and assistance ~~[as]~~ that the division may reasonably request.

Section 90. Section **79-4-205**, which is renumbered from Section 63-11-20 is

4306 renumbered and amended to read:

4307 **[63-11-20]. 79-4-205. Highways within state parks.**

4308 The ~~[Division of Parks and Recreation]~~ division has jurisdiction over and responsibility
4309 for service roads, parking areas, campground loops, and related facilities within state parks.

4310 Section 91. Section **79-4-206**, which is renumbered from Section 63-11-68 is
4311 renumbered and amended to read:

4312 **[63-11-68]. 79-4-206. Support of a nonprofit corporation or foundation.**

4313 The division may provide administrative support to a nonprofit corporation or
4314 foundation that assists the board and the division in attaining the objectives outlined in the
4315 strategic or operational plan.

4316 Section 92. Section **79-4-301**, which is renumbered from Section 63-11-12 is
4317 renumbered and amended to read:

4318 **Part 3. Board Creation and Duties**

4319 **[63-11-12]. 79-4-301. Board of Parks and Recreation -- Creation -- Functions.**

4320 (1) There is created within the ~~[Department of Natural Resources]~~ department a Board
4321 of Parks and Recreation ~~[which, except as otherwise provided in this act, shall assume all of~~
4322 ~~the policy-making functions, powers, duties, rights and responsibilities of the Utah State Park~~
4323 ~~and Recreation Commission, together with all functions, powers, duties, rights and~~
4324 ~~responsibilities granted to the Board of Parks and Recreation by this act. The Board of Parks~~
4325 ~~and Recreation shall be].~~

4326 (2) The board is the policy-making body of the ~~[Division of Parks and Recreation.~~
4327 ~~Except as otherwise provided in this act, whenever reference is made in Title 63, or any other~~
4328 ~~provision of law, to the Utah State Park and Recreation Commission, it shall be construed as~~
4329 ~~referring to the Board of Parks and Recreation where such reference pertains to policy-making~~
4330 ~~functions, powers, duties, rights and responsibilities; but in all other instances such reference~~
4331 ~~shall be construed as referring to the Division of Parks and Recreation]~~ division.

4332 Section 93. Section **79-4-302**, which is renumbered from Section 63-11-14 is
4333 renumbered and amended to read:

4334 **[63-11-14]. 79-4-302. Board of Parks and Recreation -- Appointment and terms**
4335 **of members -- Expenses.**

4336 (1) (a) The ~~[Board of Parks and Recreation shall be]~~ board is composed of nine

members appointed by the governor, with the consent of the Senate, to four-year terms.

(b) ~~[The]~~ In addition to the requirements of Section 79-2-203, the governor shall:

(i) appoint one member from each judicial district and one member from the public at large;

(ii) ensure that not more than five members are from the same political party; and

(iii) appoint persons who have an understanding of and demonstrated interest in parks and recreation.

(c) Notwithstanding the term requirements of Subsection (1)(a), the governor may adjust the length of terms to ensure that the terms of board members are staggered so that approximately ~~[1/2]~~ half of the board is appointed every two years.

(2) When vacancies occur because of death, resignation, or other cause, the governor, with the consent of the Senate, shall:

(a) appoint a person to complete the unexpired term of the person whose office was vacated; and

(b) if the person was appointed from a judicial district, appoint the replacement from the judicial district from which the person whose office has become vacant was appointed.

(3) The ~~[Board of Parks and Recreation]~~ board shall appoint its chair from its membership.

(4) (a) ~~[Members shall]~~ A member may not receive ~~[no]~~ compensation or benefits for ~~[their services]~~ the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) ~~[Members]~~ A member may decline to receive per diem and expenses for ~~[their]~~ the member's service.

Section 94. Section **79-4-303**, which is renumbered from Section 63-11-16 is renumbered and amended to read:

~~[63-11-16]. 79-4-303. Board of Parks and Recreation -- Meetings -- Quorum.~~

(1) The ~~[Board of Parks and Recreation]~~ board shall meet at least once every quarter, but special meetings may be held by call of the chairman or at the request of two members of the board.

(2) Four members of the board shall constitute a quorum for the transaction of

4368 business.

4369 Section 95. Section **79-4-304** is enacted to read:

4370 **79-4-304. Board power and duties.**

4371 (1) (a) The board may make rules:

4372 (i) governing the use of the state park system;

4373 (ii) to protect state parks and their natural and cultural resources from misuse or
 4374 damage, including watersheds, plants, wildlife, and park amenities; and

4375 (iii) to provide for public safety and preserve the peace within state parks.

4376 (b) To accomplish the purposes stated in Subsection (1)(a), the board may enact rules
 4377 that:

4378 (i) close or partially close state parks; or

4379 (ii) establish use or access restrictions within state parks.

4380 (c) Rules made under Subsection (1) may not have the effect of preventing the transfer
 4381 of livestock along a livestock highway established in accordance with Section 72-3-112.

4382 (2) The board shall adopt appropriate rules governing the collection of charges under
 4383 Subsection 79-4-203(8).

4384 Section 96. Section **79-4-305**, which is renumbered from Section 63-11-13 is
 4385 renumbered and amended to read:

4386 **[63-11-13]. 79-4-305. Legislative intent -- Long-range plans.**

4387 ~~[It is the intent of the Legislature that the Board of Parks and Recreation]~~ The board
 4388 shall formulate and cause to be put into execution by the department through the director of the
 4389 ~~[Division of Parks and Recreation]~~ division a long-range, comprehensive plan and program for
 4390 the acquisition, planning, protection, operation, maintenance, development, and wise use of
 4391 areas of scenic beauty, recreational utility, or historic, archaeological, or scientific interest, to
 4392 the end that the health, happiness, recreational opportunities, and wholesome enjoyment of life
 4393 of the people may be further encouraged within the general policies of the ~~[Department of~~
 4394 ~~Natural Resources]~~ department.

4395 Section 97. Section **79-4-401**, which is renumbered from Section 63-11-21 is
 4396 renumbered and amended to read:

4397 **Part 4. Finances**

4398 **[63-11-21]. 79-4-401. Funds to be appropriated -- Boating account expenses.**

(1) The Legislature shall appropriate such funds as from time to time necessary to carry out the purposes of this ~~[act to the Division of Parks and Recreation]~~ chapter to the division to be used by the division in the administration of the powers and duties and in carrying out the objective and purposes prescribed ~~[herein]~~ by this chapter.

(2) It is the intent of the Legislature that all departmental operating and administrative expenses for the administration of the boating account of the ~~[Division of Parks and Recreation]~~ division shall be charged against that account.

Section 98. Section **79-4-402**, which is renumbered from Section 63-11-66 is renumbered and amended to read:

~~[63-11-66].~~ 79-4-402. State Park Fees Restricted Account.

(1) There is created within the General Fund a restricted account known as the State Park Fees Restricted Account.

(2) (a) Except as provided in Subsection (2)(b), the account shall consist of revenue from:

(i) all charges allowed under ~~[Subsection 63-11-17(8)]~~ Section 79-4-203;

(ii) proceeds from the sale or disposal of buffalo under Subsection ~~[63-11-19.2]~~ 79-4-1001(2)(b); and

(iii) civil damages collected under Section 76-6-206.2.

(b) The account shall not include revenue the division receives under ~~[Sections 63-11-19.5, 63-11-19.6,]~~ Section 79-4-403 and Subsection ~~[63-11-19.2]~~ 79-4-1001(2)(a).

(3) The division shall use funds in this account for the purposes described in Section ~~[63-11-17]~~ 79-4-203.

Section 99. Section **79-4-403**, which is renumbered from Section 63-11-19.5 is renumbered and amended to read:

~~[63-11-19.5].~~ 79-4-403. User fees for golf -- Wasatch Mountain, Palisade, and Jordan River State Parks.

(1) The following user fees are assessed in the following parks for playing nine holes of golf:

(a) \$1.50 at Wasatch Mountain State Park;

(b) \$1.50 at ~~[Palisades]~~ Palisade State Park; and

~~[(c) 75 cents at Jordan River State Park.]~~

4430 (c) \$1.50 at Green River State Park.

4431 (2) The fee in Subsection (1) is:

4432 (a) in addition to the fee set by the ~~[Board of Parks and Recreation]~~ board; and

4433 (b) to be used at the park where the money is collected for:

4434 (i) the upgrade or development of facilities; or

4435 (ii) the purchase of golf course operation and maintenance equipment.

4436 (3) The revenue from the fees established in Subsection (1) ~~[shall be]~~ are nonlapsing.

4437 Section 100. Section **79-4-404**, which is renumbered from Section 63-11-67 is

4438 renumbered and amended to read:

4439 **[63-11-67]. 79-4-404. Zion National Park Support Programs Restricted**

4440 **Account -- Creation -- Funding -- Distribution of funds.**

4441 (1) There is created within the General Fund the Zion National Park Support Programs
4442 Restricted Account.

4443 (2) The account shall be funded by:

4444 (a) contributions deposited into the account in accordance with Section 41-1a-422;

4445 (b) private contributions; or

4446 (c) donations or grants from public or private entities.

4447 (3) The Legislature shall appropriate funds in the account to the division.

4448 (4) The board may expend up to 10% of the monies appropriated under Subsection (3)
4449 to administer account distributions in accordance with Subsections (5) and (6).

4450 (5) The division shall distribute contributions to one or more organizations that:

4451 (a) are exempt from federal income taxation under Section 501(c)(3), Internal Revenue
4452 Code;

4453 (b) operate under a written agreement with the National Park Service to provide
4454 interpretive, educational, and research activities for the benefit of Zion National Park;

4455 (c) produce and distribute educational and promotional materials on Zion National
4456 Park;

4457 (d) conduct educational courses on the history and ecosystem of the greater Zion
4458 Canyon area; and

4459 (e) provide other programs that enhance visitor appreciation and enjoyment of Zion
4460 National Park.

(6) (a) An organization described in Subsection (5) may apply to the division to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the division in accordance with Subsection (5) shall expend the distribution only to:

(i) produce and distribute educational and promotional materials on Zion National Park;

(ii) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and

(iii) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution under Subsection (5).

Section 101. Section **79-4-501**, which is renumbered from Section 63-11-17.2 is renumbered and amended to read:

Part 5. Enforcement

[63-11-17.2]. 79-4-501. Peace officer authority of park rangers.

(1) The ~~[Division of Parks and Recreation]~~ division has the duty to:

(a) protect state parks and park property from misuse or damage; and ~~[to]~~

(b) preserve the peace within state parks.

(2) Employees of the ~~[Division of Parks and Recreation]~~ division who are POST certified peace officers and who are designated as park rangers by the division director, are law enforcement officers under Section 53-13-103[;] and have all the powers of law enforcement officers in the state, with the exception of the power to serve civil process.

(3) The ~~[Division of Parks and Recreation]~~ division has the authority to deputize persons who are peace officers or special function officers to assist park rangers on a seasonal temporary basis.

Section 102. Section **79-4-502**, which is renumbered from Section 63-11-17.3 is renumbered and amended to read:

[63-11-17.3]. 79-4-502. Violation of law or board regulations -- Misdemeanor.

Any person who violates Section ~~[63-11-17]~~ 79-4-203 or any of the rules of the board adopted pursuant to this chapter is guilty of a class B misdemeanor.

Section 103. Section **79-4-601**, which is renumbered from Section 63-11-3 is renumbered and amended to read:

Part 6. State Parks

~~[63-11-3].~~ **79-4-601. "This is the Place Monument," Camp Floyd, old statehouse -- Supervision and control.**

~~[The Division of Parks and Recreation shall have the power and it shall be its duty to take administrative and supervisory control over]~~

(1) The division shall administer and supervise the following historical monuments:
[namely,]

(a) "This is the Place Monument" Site[;];

(b) Camp Floyd; and

(c) the old statehouse at Fillmore.

(2) The division may make expenditures for [such] maintenance and administration from funds;

(a) made available by appropriation; or [from other funds which]

(b) that are available to the division.

Section 104. Section **79-4-602**, which is renumbered from Section 63-11-54.5 is renumbered and amended to read:

~~[63-11-54.5].~~ **79-4-602. Mountain Meadow Massacre site included within state park system.**

(1) The Mountain Meadow Massacre site and monument [shall be] is included within the state park system.

(2) The ~~[Division of Parks and Recreation]~~ division may:

(a) enter into an agreement with the United States Forest Service for the use of land at the site as a state park; and

(b) receive donations of land[;] or facilities [or both] at the site for inclusion within the state park.

Section 105. Section **79-4-603**, which is renumbered from Section 63-11-54 is renumbered and amended to read:

[63-11-54]. 79-4-603. Iron Mission Historical Monument -- Acceptance of gifts from Iron Mission Park Corporation.

The ~~[Board of Parks and Recreation, an agency of the state of Utah, is directed to]~~ board shall accept on behalf of the state ~~[of Utah]~~ the Gronway Parry collection of horse-drawn vehicles, horses, harnesses, figures, costumes, and horse-drawn machinery of the pioneer era, the Melling log cabin, the Osborne blacksmith collection, and a metal exhibit building, all being gifts to the state from the Iron Mission Park Nonprofit Corporation.

Section 106. Section **79-4-604**, which is renumbered from Section 63-11-55 is renumbered and amended to read:

[63-11-55]. 79-4-604. Iron Mission Historical Monument -- Acquisition of property.

The ~~[Division of Parks and Recreation is authorized to]~~ division may:

(1) acquire, construct, maintain, and operate any land areas, objects, or structures as necessary to preserve, protect, display, and enhance ~~[these]~~:

(a) the gifts described in Section 79-4-603; and

(b) other historical objects or collections donated, loaned, or otherwise acquired~~[-now or in the future,]~~ that appropriately contribute to the pioneer heritage of Utah; and ~~[to accomplish this either]~~

(c) acquire, directly or through others, by purchase, contract, lease, permit, donations, or otherwise, all real or personal property, rights of way, approach roads, parking and other areas, structures, facilities and services ~~[which]~~ that the division and board may deem necessary or desirable ~~[therefor]~~ to accomplish Subsection (1).

Section 107. Section **79-4-701**, which is renumbered from Section 63-11-3.1 is renumbered and amended to read:

Part 7. This is the Place Monument

~~[63-11-3.1]. 79-4-701. Definitions.~~

As used in ~~[Sections 63-11-3.1 through 63-11-3.3]~~ this part:

(1) "Board of trustees" means the board of trustees of This is the Place Foundation.

~~[(2) "Division" means the Division of Parks and Recreation.]~~

~~[(3)]~~ (2) "Foundation" means This is the Place Foundation, a private nonprofit corporation formed pursuant to Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

4554 (3) "Member" means a member of the board of trustees.

4555 (4) "Monument" means This is the Place Monument at This is the Place State Park.

4556 (5) "Park" means This is the Place State Park, property owned by the state ~~[of Utah]~~
4557 located at 2601 East Sunnyside Avenue, Salt Lake City.

4558 Section 108. Section **79-4-702**, which is renumbered from Section 63-11-3.2 is
4559 renumbered and amended to read:

4560 **[63-11-3.2]. 79-4-702. Agreement to manage This is the Place State Park --**
4561 **Management fee.**

4562 (1) In recognition of the need for private funds to continue the expansion and
4563 improvement of Old Deseret Village, a living history museum at ~~[This is the Place State Park]~~
4564 the park, and the preference of donors to contribute to nonprofit organizations rather than
4565 government entities, the ~~[Division of Parks and Recreation is authorized to]~~ division may make
4566 an agreement with ~~[This is the Place Foundation]~~ the foundation to manage, develop, and
4567 promote ~~[This is the Place State Park]~~ the park.

4568 (2) The division may pay a management fee to the foundation.

4569 (3) The division may not require the foundation to remit to the division any portion of
4570 the income generated from park operations.

4571 Section 109. Section **79-4-703**, which is renumbered from Section 63-11-3.3 is
4572 renumbered and amended to read:

4573 **[63-11-3.3]. 79-4-703. Terms of agreement.**

4574 Any agreement made pursuant to Section ~~[63-11-3.2]~~ 79-4-702 shall include the
4575 following terms:

4576 (1) The foundation shall transfer to the state:

4577 (a) title to any real property acquired by the foundation, upon completion of payment,
4578 if any, for the property by the foundation; and

4579 (b) ownership of any artifacts or collections acquired by the foundation.

4580 (2) No fee may be charged to visit the monument.

4581 (3) (a) Except as provided in Subsections (3)(b) and (3)(c), a ~~[board]~~ member may not
4582 receive ~~[no]~~ compensation or financial benefit, directly or indirectly, as a result of the member's
4583 service on the board of trustees.

4584 (b) A ~~[board]~~ member may receive per diem and expenses incurred in the performance

4585 of the ~~[board]~~ member's duties at the rates established by the board of trustees.

4586 (c) A ~~[board]~~ member may deal or contract with the foundation, provided that:

4587 (i) no person or entity is paid any fee, salary, rent, or other payment of any kind in
4588 excess of the fair market value for the service rendered, goods furnished, or facilities or
4589 equipment rented; and

4590 (ii) at a meeting of the board of trustees or subcommittee of the board of trustees
4591 having authority to authorize or confirm the contract or transaction:

4592 (A) a quorum of the board of trustees or subcommittee is present;

4593 (B) the interest of the ~~[board]~~ member is disclosed;

4594 (C) a majority of the quorum votes to approve the contract or transaction; and

4595 (D) in determining a majority under Subsection (3)(c)(ii)(C), the vote of any ~~[board]~~
4596 member having an interest in the contract or transaction is not counted.

4597 (4) The foundation shall obtain an annual audit prepared;

4598 (a) by an independent public accounting firm~~[- The audit shall be prepared]; and~~

4599 (b) in accordance with generally accepted accounting standards.

4600 Section 110. Section **79-4-704**, which is renumbered from Section 63-11-10.2 is
4601 renumbered and amended to read:

4602 ~~[63-11-10.2].~~ **79-4-704. Use of waters from Wagner Spring.**

4603 The ~~[Division of Parks and Recreation is authorized to]~~ division may use the waters
4604 from ~~[that certain spring, known as]~~ the Wagner Spring~~[-]~~ located on the park ~~[area;]~~ for any
4605 purposes connected with the upkeep and maintenance of the park, including the ~~["This is the~~
4606 ~~Place Monument" within said park]~~ monument.

4607 Section 111. Section **79-4-705**, which is renumbered from Section 63-11-10.3 is
4608 renumbered and amended to read:

4609 ~~[63-11-10.3].~~ **79-4-705. Agreement with public utility companies as to**
4610 **easements or rights of way across park.**

4611 The ~~[Division of Parks and Recreation is authorized to]~~ division may enter into
4612 agreements with public utility companies for the granting and maintenance of easements or
4613 rights of way across ~~[said]~~ the park.

4614 Section 112. Section **79-4-801**, which is renumbered from Section 63-11-16.5 is
4615 renumbered and amended to read:

Part 8. Riverway Enhancement

[~~63-11-16.5~~]. 79-4-801. Provo-Jordan River Parkway Authority transferred to Division of Parks and Recreation.

~~[The Provo-Jordan River Parkway Authority shall cease to be a separate division in the Department of Natural Resources and shall become a portion of the Division of Parks and Recreation known as the Riverway Enhancement Program.] All properties, rights, interests, powers, functions, duties, and obligations of the Provo-Jordan River Parkway Authority[; except as otherwise provided in this title, shall then be] is transferred to the [Division of Parks and Recreation in behalf of the Riverway Enhancement Program] division.~~

Section 113. Section **79-4-802**, which is renumbered from Section 63-11-17.8 is renumbered and amended to read:

[~~63-11-17.8~~]. 79-4-802. Riverway enhancement grants -- Matching funds requirements -- Rules.

(1) (a) The ~~[Division of Parks and Recreation]~~ division may give grants to local governments and state agencies for riverway enhancement projects with funds appropriated by the Legislature for that purpose.

(b) Each grant recipient must provide matching funds having a value that is equal to or greater than the grant funds received. ~~[However, the Board of Parks and Recreation]~~

(c) The board may allow a grant recipient to provide property, material, or labor in lieu of money, provided the grant recipient's contribution has a value that is equal to or greater than the grant funds received.

(2) The ~~[Board of Parks and Recreation]~~ board shall:

(a) make rules setting forth procedures and criteria for the awarding of grants for riverway enhancement projects; and

(b) determine to whom grant funds shall be awarded after considering the recommendations of and after consulting with ~~[the Riverway Enhancement Advisory Council and]~~ the division.

(3) Rules for the awarding of grants for riverway enhancement projects shall provide that:

(a) each riverway enhancement project for which grant funds are awarded must be along a river or stream that is impacted by high density populations or prone to flooding; and

(b) riverway enhancement proposals that include a plan to provide employment opportunities for youth, including at-risk youth[;] as defined in Section ~~[63-11a-501]~~ 79-5-501, in the development of the riverway enhancement project ~~[shall be]~~ is encouraged.

Section 114. Section **79-4-901**, which is renumbered from Section 63-11-63 is renumbered and amended to read:

Part 9. Pioneer Heritage

~~[63-11-63].~~ **79-4-901. Pioneer heritage of Utah -- Acquisitions and operations by Division of Parks and Recreation.**

(1) The ~~[Division of Parks and Recreation is authorized to]~~ division may acquire, construct, maintain, and operate any land areas, objects, or structures as necessary to preserve, protect, display, and enhance any gifts and other historical objects or collections donated, loaned, or otherwise acquired~~[, now or in the future,]~~ that appropriately contribute to the pioneer heritage of Utah. ~~[The]~~

(2) To accomplish Subsection (1), the division may~~[, in order to accomplish this,]~~ directly or through others, by purchase, contract, lease, permit, donation, or otherwise, secure all real or personal property, rights of way, approach roads, parking and other areas, structures, facilities, and services ~~[which]~~ that the division and board may deem necessary or desirable ~~[therefor]~~ to contribute to the pioneer heritage of Utah.

Section 115. Section **79-4-1001**, which is renumbered from Section 63-11-19.2 is renumbered and amended to read:

Part 10. Miscellaneous

~~[63-11-19.2].~~ **79-4-1001. Purchase, trade, sale, or disposal of buffalo -- Proceeds.**

(1) In accordance with a plan, approved by the ~~[Board of Parks and Recreation, for the management of]~~ board, to manage buffalo herds on Antelope Island, the ~~[Division of Parks and Recreation is authorized to]~~ division may purchase, trade, sell, or dispose of buffalo obtained from Antelope Island through:

(a) competitive bidding; or ~~[any other]~~

(b) a means as established by rule.

(2) Proceeds received from the sale or disposal of buffalo under this section shall be deposited as follows:

(a) the first \$75,000 shall accrue to the ~~[Division of Parks and Recreation]~~ division for the management of Antelope Island buffalo herds as nonlapsing dedicated credits; and

(b) proceeds in excess of \$75,000 shall be deposited in the State Park Fees Restricted Account created under Section ~~[63-11-66]~~ 79-4-402.

Section 116. Section **79-5-101** is enacted to read:

CHAPTER 5. RECREATIONAL TRAILS

Part 1. General Provisions

79-5-101. Title.

This chapter is known as "Recreational Trails."

Section 117. Section **79-5-102**, which is renumbered from Section 63-11a-101 is renumbered and amended to read:

[63-11a-101]. 79-5-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of Parks and Recreation.

~~[(1)]~~ (2) "Council" means the Recreational Trails Advisory Council.

~~[(2)]~~ (3) "Division" means the Division of Parks and Recreation.

~~[(3)]~~ (4) "Recreational trail" or "trail" means a multi-use path used for:

(a) muscle-powered activities, including:

(i) bicycling[;];

(ii) cross-country skiing[;];

(iii) walking[;];

(iv) jogging[;]; and

(v) horseback riding[;]; and [other compatible uses.]

(b) uses compatible with the uses described in Subsection (4)(a).

Section 118. Section **79-5-103**, which is renumbered from Section 63-11a-102 is renumbered and amended to read:

[63-11a-102]. 79-5-103. Division to plan and develop recreational trails in cooperation with public and private entities -- Priorities.

(1) The division shall plan and develop a recreational trail system throughout the state ~~[which]~~ that:

(a) provides for outdoor recreation needs; and

4709 (b) facilitates access to, travel within, and enjoyment and admiration of the outdoors.

4710 (2) To assure that an integrated trails network is achieved, the division shall coordinate
4711 the planning and development of trails with:

4712 (a) federal land management agencies[;];

4713 (b) local governments[;];

4714 (b) private landowners[;]; and [other]

4715 (d) state agencies.

4716 (3) The division shall give priority to establishing trails [which] that:

4717 (a) cross public lands;

4718 (b) are in proximity or accessible to urban areas;

4719 (c) implement rail-to-trail conversions pursuant to the National Trails System Act, 16

4720 U.S.C. Sec. 1241 et seq.;

4721 (d) provide linkage to existing trails; and

4722 (e) provide linkage or access to natural, scenic, historic, or recreational areas of

4723 statewide significance.

4724 [(4) Trails shall be selected to minimize adverse impacts to wildlife and the natural
4725 environment.]

4726 Section 119. Section **79-5-201**, which is renumbered from Section 63-11a-401 is
4727 renumbered and amended to read:

4728 **Part 2. Advisory Council**

4729 ~~[63-11a-401].~~ **79-5-201. Recreational Trails Advisory Council.**

4730 (1) The division shall establish a Recreational Trails Advisory Council.

4731 (2) The council shall advise and make recommendations to the [Board] board and

4732 ~~[Division of Parks and Recreation]~~ division regarding:

4733 (a) trails to be established;

4734 (b) facilities to be constructed;

4735 (c) development costs;

4736 (d) modes of travel permitted;

4737 (e) law enforcement;

4738 (f) selection of rights-of-way;

4739 (g) interlocal agreements;

- 4740 (h) selection of signs and markers;
 4741 (i) the general administration of trails;
 4742 (j) distribution of matching funds pursuant to Section ~~[63-11a-501]~~ 79-5-501; and
 4743 (k) future funding mechanisms for trail development.

4744 Section 120. Section **79-5-202**, which is renumbered from Section 63-11a-402 is
 4745 renumbered and amended to read:

4746 ~~[63-11a-402].~~ **79-5-202. Council membership -- Expenses.**

4747 (1) The council shall consist of nine members knowledgeable about muscle-powered
 4748 recreational activities as follows:

4749 (a) five members shall represent the public at large;
 4750 (b) one member, nominated by the Utah League of Cities and Towns, shall represent
 4751 city government;

4752 (c) one member, nominated by the Utah Association of Counties, shall represent
 4753 county government;

4754 (d) one member shall represent the United States Forest Service; and

4755 (e) one member shall represent the Bureau of Land Management.

4756 (2) (a) Except as required by Subsection (2)(b), as terms of current council members
 4757 expire, the division shall appoint each new member or reappointed member to a four-year term.

4758 (b) Notwithstanding the requirements of Subsection (2)(a), the division shall, at the
 4759 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
 4760 council members are staggered so that approximately half of the council is appointed every two
 4761 years.

4762 (3) The council shall elect annually a chair and a vice chair from its members.

4763 (4) When a vacancy occurs in the membership for any reason, the division shall
 4764 appoint the replacement ~~[shall be appointed]~~ for the unexpired term.

4765 (5) (a) (i) ~~[Members]~~ A member who ~~[are]~~ is not a government ~~[employees shall]~~
 4766 employee may not receive ~~[no]~~ compensation or benefits for ~~[their services]~~ the member's
 4767 service, but may receive per diem and expenses incurred in the performance of the member's
 4768 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and
 4769 63A-3-107.

4770 (ii) ~~[Members]~~ A member may decline to receive per diem and expenses for ~~[their]~~ the

4771 member's service.

4772 (b) (i) [~~State~~] A state government officer and employee [~~members~~] member who [~~do~~]
 4773 does not receive salary, per diem, or expenses from [~~their~~] the agency the member represents
 4774 for [~~their~~] the member's service may receive per diem and expenses incurred in the
 4775 performance of [~~their~~] the member's official duties [~~from the council~~] at the rates established by
 4776 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

4777 (ii) [~~State~~] A state government officer and employee [~~members~~] member may decline
 4778 to receive per diem and expenses for [~~their~~] the member's service.

4779 (c) (i) [~~Local~~] A local government [~~members~~] member who [~~do~~] does not receive
 4780 salary, per diem, or expenses from the entity that [~~they~~] the member represent for [~~their~~] the
 4781 member's service may receive per diem and expenses incurred in the performance of [~~their~~] the
 4782 member's official duties at the rates established by the Division of Finance under Sections
 4783 63A-3-106 and 63A-3-107.

4784 (ii) [~~Local~~] A local government [~~members~~] member may decline to receive per diem
 4785 and expenses for [~~their~~] the member's service.

4786 Section 121. Section **79-5-301**, which is renumbered from Section 63-11a-201 is
 4787 renumbered and amended to read:

4788 **Part 3. Trail Development**

4789 ~~[63-11a-201].~~ **79-5-301. Guidelines for the establishment of trails.**

4790 [~~The~~] In establishing trails, the division shall [~~establish trails in accordance with the~~
 4791 following guidelines]:

4792 (1) [~~Development and management of~~] develop and manage the trails [~~shall be~~
 4793 designed] to harmonize with and complement any existing or planned land uses[.];

4794 (2) [~~Projects shall be located and designed pursuant~~] locate and design trails according
 4795 to an overall plan that provides for:

4796 (a) interconnecting routes, where feasible; and

4797 (b) consideration of safety[.]; and

4798 (3) [~~Trails shall be selected~~] select trails to minimize adverse effects on [~~adjacent~~
 4799 landowners or users and their property or operations.];

4800 (a) an adjacent landowner or user and the landowner's or user's property or operations;

4801 (b) wildlife; and

4802 (c) the natural environment.

4803 Section 122. Section **79-5-302**, which is renumbered from Section 63-11a-103 is
4804 renumbered and amended to read:

4805 **~~[63-11a-103].~~ 79-5-302. Recreational trail categories.**

4806 The division may plan and develop the following categories of recreational ~~[trail~~
4807 ~~categories may be established]~~ trails as part of the state trails system:

4808 (1) cross-state trails ~~[which]~~ that connect scenic, natural, historic, geologic, geographic,
4809 or other significant features;

4810 (2) water-oriented trails ~~[providing]~~ that provide a path to or along lakes, streams, or
4811 reservoirs;

4812 (3) scenic-access trails ~~[which]~~ that give access to recreation, scenic, natural, historic,
4813 or cultural areas;

4814 (4) urban trails ~~[which]~~ that connect parks, scenic and natural areas, historical sites,
4815 and neighboring communities within a county of the first or second class; and

4816 (5) interpretive trails ~~[which]~~ that identify:

4817 (a) historic routes; and

4818 (b) significant natural features.

4819 Section 123. Section **79-5-303**, which is renumbered from Section 63-11a-202 is
4820 renumbered and amended to read:

4821 **~~[63-11a-202].~~ 79-5-303. Establishment of uniform signs and markers.**

4822 The division, in consultation with appropriate federal, state, and local government
4823 agencies and private organizations, shall establish uniform signs and markers for the system of
4824 recreational trails.

4825 Section 124. Section **79-5-304**, which is renumbered from Section 63-11a-203 is
4826 renumbered and amended to read:

4827 **~~[63-11a-203].~~ 79-5-304. Public hearings required.**

4828 (1) Prior to establishing any recreational trail under the jurisdiction and control of the
4829 division, the division shall conduct a public hearing in the area or areas of the state where the
4830 trail is proposed to be located.

4831 (2) Information to be considered at the hearings shall include the following:

4832 ~~[(+)]~~ (a) the proposed route of the trail and the recommended modes of travel to be

4833 permitted on it;

4834 ~~[(2)]~~ (b) any plans to utilize areas adjacent to the trail for scenic, historic, natural,
4835 cultural, or developmental purposes;

4836 ~~[(3)]~~ (c) the characteristics that, in the judgment of the division, make the proposed
4837 trail suitable as a recreational trail;

4838 ~~[(4)]~~ (d) the current status of land ownership and the current and potential use of land
4839 along the designated route;

4840 ~~[(5)]~~ (e) the estimated cost of acquisition of lands or any interest in lands;

4841 ~~[(6)]~~ (f) the plans and estimated costs for developing and maintaining the trail;

4842 ~~[(7)]~~ (g) any plans for sharing the costs of developing, operating, and maintaining the
4843 trail among state, federal, and local governmental entities and private organizations;

4844 ~~[(8)]~~ (h) any anticipated problems of policing the trail; and

4845 ~~[(9)]~~ (i) any anticipated hazards to private lands adjacent to the trail.

4846 Section 125. Section **79-5-401**, which is renumbered from Section 63-11a-301 is
4847 renumbered and amended to read:

4848 **Part 4. Trail Operation and Maintenance**

4849 ~~[63-11a-301].~~ **79-5-401. Cooperative agreements.**

4850 The division may enter into cooperative agreements with federal, state, or local
4851 governmental entities, private landowners, or private corporations ~~[which]~~ that specify the
4852 responsibilities of each entity for the development ~~[and]~~, operation, and maintenance of trails,
4853 including law enforcement along trails.

4854 Section 126. Section **79-5-501**, which is renumbered from Section 63-11a-501 is
4855 renumbered and amended to read:

4856 **Part 5. Trail Funding**

4857 ~~[63-11a-501].~~ **79-5-501. Grants -- Matching funds requirements -- Rules.**

4858 (1) (a) The ~~[division]~~ board may give grants to federal government agencies, state
4859 agencies, or local governments for the planning, acquisition, and development of trails within
4860 the state's recreational trail system with funds appropriated by the Legislature for that purpose.

4861 (b) (i) Each grant recipient must provide matching funds having a value that is equal to
4862 or greater than the grant funds received. ~~[However, the Board of Parks and Recreation]~~

4863 (ii) The board may allow a grant recipient to provide property, material, or labor in lieu

of money, provided the grant recipient's contribution has a value that is equal to or greater than the grant funds received.

(2) The [~~Board of Parks and Recreation~~] board shall:

(a) make rules setting forth procedures and criteria for the awarding of grants for recreational trails; and

(b) determine to whom grant funds shall be awarded after considering the recommendations of and after consulting with the [~~Recreational Trails Advisory Council~~] council and the division.

(3) Rules for the awarding of grants for recreational trails shall provide that:

(a) each grant applicant must solicit public comment on the proposed recreational trail and submit a summary of that comment to the division;

(b) each trail project for which grant funds are awarded must conform to the criteria and guidelines specified in Sections [~~63-11a-102, 63-11a-103, and 63-11a-201~~] 79-5-103, 79-5-301, and 79-5-302; and

(c) trail proposals that include a plan to provide employment opportunities for youth, including at-risk youth, in the development of the trail [~~shall be~~] is encouraged.

(4) As used in this section, "at-risk youth" means youth who:

(a) are subject to environmental forces, such as poverty or family dysfunction, that may make them vulnerable to family, school, or community problems;

(b) perform poorly in school or have failed to complete high school;

(c) exhibit behaviors [~~which~~] that have the potential to harm themselves or others in the community, such as truancy, use of alcohol or drugs, and associating with delinquent peers; or

(d) have already engaged in behaviors harmful to themselves or others in the community.

Section 127. Section **79-5-502**, which is renumbered from Section 63-11a-502 is renumbered and amended to read:

~~[63-11a-502].~~ **79-5-502. Donations.**

The division may receive, from any person, donated funds, property, or services for specified or nonspecified uses associated with the planning, acquisition, development, and administration of recreational trails.

Section 128. Section **79-5-503**, which is renumbered from Section 63-11a-504 is renumbered and amended to read:

~~[63-11a-504].~~ 79-5-503. Bonneville Shoreline Trail Program.

(1) There is created the Bonneville Shoreline Trail Program.

(2) The program shall be funded from the following sources:

(a) appropriations made to the program by the Legislature; and

(b) contributions from other public and private sources.

(3) All monies appropriated to the Bonneville Shoreline Trail Program are nonlapsing.

(4) The Bonneville Shoreline Trail is intended to:

(a) follow on or near the old Lake Bonneville shoreline terrace near the foot of the Wasatch Mountains from Juab County to Cache County; and

(b) provide continuous and safe ~~[routes, paths, or] trails [for pedestrians, bicyclists, and equestrian riders, where appropriate].~~

(5) (a) The program monies shall be used to provide grants to local governments for the planning, development, and construction of the Bonneville Shoreline Trail.

(b) Grant recipients shall ~~[be required to]~~ provide matching funds in accordance with Section ~~[63-11a-504]~~ 79-5-501.

Section 129. Repealer.

This bill repeals:

Section **63-11-1, Designation of old Utah state prison site as state park.**

Section **63-11-17.5, Powers and duties of board and division concerning areas along rivers and streams -- Definitions -- Limitations on construction.**

Section **63-11-17.7, Riverway Enhancement Advisory Council created -- Composition -- Terms -- Vacancies -- Chair -- Quorum -- Council payment.**

Section **63-11-19.1, Contracts for purchase of lands for addition to Wasatch Mountain State Park -- Tax levy for payment of principal and interest -- Separability.**

Section **63-11-19.6, User fee for golf -- Green River State Park.**

Section **63-11-33, Pioneer Monument State Park -- Conveyance by University of Utah of additional land.**

Section **63-11-34, Pioneer Monument State Park -- Area to be conveyed.**

- 4925 Section **63-11-35, Pioneer Monument State Park -- Date of conveyance.**
- 4926 Section **63-11-36, Bonneville Scenic Drive -- Location of right of way.**
- 4927 Section **63-11-56, State museum of Indian history and culture -- Acquisition of**
- 4928 **property.**
- 4929 Section **63-11-62, Frontier history and culture -- State monument -- Title to land.**
- 4930 Section **63-11a-503, Centennial Nonmotorized Paths and Trail Crossings Program**
- 4931 **-- Eligibility and distribution -- Rulemaking.**
- 4932 Section **63-34-1, Short title.**
- 4933 Section **63-34-7, Federal aid programs -- Agreements with other states and**
- 4934 **organizations -- Authority of executive director.**
- 4935 Section **63-34-10, "Volunteer" defined -- Expense reimbursement.**
- 4936 Section **63-34-11, Volunteers as state employees.**
- 4937 Section **63-34-12, Approval prerequisite to volunteer service -- Rules and**
- 4938 **regulations.**
- 4939 Section **63-34-16, Outdoor recreation facilities -- Executive director to plan.**
- 4940 Section **63-34-17, Outdoor recreation facilities -- Powers of executive director to**
- 4941 **obtain federal aid.**
- 4942 Section **63-34-18, Outdoor recreation facilities -- Department of Natural Resources**
- 4943 **as agent of state.**
- 4944 Section **63-34-19, Outdoor recreation facilities -- Availability of funds for shares of**
- 4945 **state or political subdivision project costs required.**